



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 11418-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) USD Memo of 25 August 2017 (Kurta Memo)
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to upgrade his characterization of service to Honorable and to make other conforming changes to his DD Form 214.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 April 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (d). Additionally, the Board also considered an advisory opinion (AO), furnished by qualified mental health provider, that was considered favorable toward Petitioner.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

c. Petitioner enlisted in the U.S. Marine Corps and began a period of active service on 21 May 2005. Petitioner's pre-enlistment physical examination, on 15 April 2005, and self-reported medical history both neither noted nor endorsed any psychiatric and/or neurologic conditions or symptoms.

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d. On 16 January 2006, Petitioner commenced an unauthorized absence (UA) that terminated on 18 January 2006. On 29 January 2006, Petitioner's command issued him a "Page 11" counseling sheet (Page 11) noting his personality disorder diagnosis. The Page 11 advised him that a failure to take corrective action may result in administrative separation or limitation on further service. On 29 January 2006, Petitioner's command issued him a second Page 11 advising him that he was being processed for an administrative discharge due to a diagnosed personality disorder.

e. On 25 May 2006, Petitioner received non-judicial punishment (NJP) for a 3-day UA, insubordinate conduct, and for failing to obey a lawful order. Petitioner did not appeal his NJP. On 26 May 2006, Petitioner's command issued him a Page 11 documenting his multiple UCMJ violations. The Page 11 advised him that a failure to take corrective action will result in further disciplinary actions and/or administrative separation.

f. On 6 July 2006, Petitioner received NJP for the disobedience of a lawful order by breaking restriction. Petitioner did not appeal his NJP.

g. On 17 July 2006, Petitioner's command notified him of administrative separation proceedings by reason of misconduct due to a pattern of misconduct. The Petitioner waived his rights to consult with counsel, submit statements, and to request an administrative separation board.

h. Petitioner's commanding officer recommended to the Separation Authority (SA) that he receive an under Other Than Honorable conditions (OTH) discharge. On 3 August 2006, the Staff Judge Advocate to the SA determined that Petitioner's separation proceedings were legally and factually sufficient. On 4 August 2006, the SA approved and directed Petitioner's discharge for misconduct with an OTH discharge characterization. Ultimately, on 8 August 2006, the Petitioner was discharged from the Marine Corps for misconduct with an OTH characterization of service and was assigned an "RE-4" reentry code.

i. A licensed clinical psychologist (Ph.D.) reviewed Petitioner's contentions and the available records, and issued an AO dated 26 March 2025. As part of the Board's review, the Board considered the AO. The AO stated, in pertinent part:

In February 2006, the Petitioner was evaluated by psychiatry for suicidal ideation and diagnosed with Personality Disorder Not Otherwise Specified (NOS) with Antisocial and Passive Aggressive Traits.

In April 2006, the Petitioner was evacuated from his Iraq deployment for mental health concerns with diagnoses of Depressive Disorder NOS and Personality Disorder NOS.

Petitioner was appropriately referred for a psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by three mental health clinicians. There is also some in-service evidence that he may have been

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experiencing prodromal symptoms of psychosis. Temporally remote to his military service, a VA clinician has noted that he has been diagnosed with PTSD and a thought disorder. It is possible that his misconduct in service could be attributed to an exacerbation of pre-service mental health vulnerabilities and in-service stressors.

The Ph.D. concluded, "There is in-service evidence of a possible mental health condition that may be attributed to military service. There is post-service evidence from the VA of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is in-service and post-service evidence that his misconduct may be attributed to PTSD or another mental health condition."

j. In short, Petitioner contended he was suffering from PTSD following a combat deployment in Iraq cut short due to mental health-related concerns. Petitioner argued, in part, that the PTSD and his diagnosed depression and symptoms were causative factors for the behavior underlying his separation and he further argued that the Board must view his mental health conditions and symptoms as mitigating factors to the misconduct underlying his discharge and upgrade his characterization of service. Petitioner also argued that his mental health considerations mitigating the behavior leading to his discharge were not outweighed by the seriousness of his cumulative misconduct. Petitioner further requested relief based on Wilkie Memo clemency considerations.

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

The Board initially determined that Petitioner's administrative separation for misconduct was legally and factually sufficient, and in accordance with all Department of the Navy directives and policy at the time of his discharge.

In keeping with the letter and spirit of the Hagel, Kurta, and Wilkie Memos, and although the Board does not condone Petitioner's cumulative misconduct, the Board felt that Petitioner's PTSD and resulting symptoms mitigated the misconduct used to characterize his discharge. The Board concurred with the AO and concluded that Petitioner's mental health-related conditions and/or symptoms as possible causative factors in the misconduct contributing to his discharge and characterization were not outweighed by the severity of Petitioner's misconduct. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize Petitioner's service as having been with an OTH, and that a discharge upgrade to "General (Under Honorable Conditions)" (GEN) and no higher, based on liberal consideration of mental health considerations, is appropriate at this time. Further, based on the same rationale, the Board determined it was in the interests of justice to change Petitioner's reason for separation to reflect a "Secretarial Authority" discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an Honorable discharge characterization. The Board did not believe that the Petitioner's record was otherwise so meritorious to deserve an Honorable discharge. The Board concluded that significant negative aspects of the Petitioner's conduct and/or performance outweighed the

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positive aspects of his military record even under the liberal consideration standard for mental health conditions. The Board believed that, even though flawless service is not required for an Honorable discharge, in this case a GEN discharge and no higher was appropriate. The Board determined the record reflected that Petitioner's misconduct was intentional and demonstrated he was unfit for further service. The Board also concluded that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not otherwise be held accountable for his actions. Additionally, in light of the Wilkie Memo, the Board still similarly concluded after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, that the Petitioner only merits a GEN characterization of service and no higher.

Lastly, the Board did not find a material error or injustice with the Petitioner's original RE-4 reenlistment/reentry code. The Board concluded the Petitioner was assigned the correct reentry code based on the totality of his circumstances, and that such reentry code on Petitioner's DD Form 214 was entirely proper and in compliance with all Department of the Navy directives and policy at the time of his discharge. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

That Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty indicating, for the period ending 8 August 2006, that he was discharged with a "General (Under Honorable Conditions)" character of service, narrative reason for separation of "Secretarial Authority," separation authority of "MARCORSEPMAN par. 6214," and the separation code of "JFF1."

That a copy of this report of proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/22/2025

[REDACTED]
Executive Director

Signed by: [REDACTED]