



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

Docket No. 12080-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) USD Memo, "Clarifying Guidance to Boards for Correction of Military/Naval Records Considering Cases Involving Both Liberal Consideration Discharge Relief Requests and Fitness Determinations," of 4 April 2024
(c) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017
(d) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," of 3 September 2014
(e) Petitioner's Official Military Personnel File
(f) 38 CFR § 4.129
(g) DoD 7000.14-R Financial Management Regulation Volume 7A, Chapter 2

Encl: (1) DD Form 149 w/enclosures
(2) Physician Advisor, Board for Correction of Naval Records ltr Docket 12080 of 21 August 2025

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 he be placed on the Permanent Disability Retired List (PDRL) with at least a 50% disability, designated Combat Related/Combat Zone (CR/CZ), retroactive to his retirement date and that he be repaid a mid-career incentive bonus that was recouped at his discharge.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 27 August 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of Petitioner's application, enclosure (1), together with all material submitted in support thereof and all of the enclosures hereto, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (d); namely, the 4 April 2024 guidance from the Under Secretary of Defense for Personnel and Readiness regarding cases involving both liberal consideration discharge relief requests and fitness determinations (Vazirani Memo), the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo), and the 3 September 2014 guidance from the Office of the

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Secretary of Defense concerning discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), hereinafter collectively referred to as the Clarifying Guidance. The Board also considered the enclosure (2), an advisory opinion (AO) prepared by a qualified medical professional, which was considered favorable to Petitioner's request.

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 regulation within the Department of the Navy.

b. According to reference (e), Petitioner enlisted in the Navy, commenced active duty on 23 February 2010, and obtained the Hospital Corpsman rating. During a period in 2013 to 2014, he served in Afghanistan. According to his Enlisted Evaluation Report covering the period he served in Afghanistan, he participated in over 80 combat patrols and responded to two separate mass casualty events. As more fully described in the AO, on 19 October 2017, Petitioner was evaluated at the Behavioral Health Clinic (BHC) at [REDACTED] due to his frequent deployment-related sleep disturbances and reoccurring memories starting after deployment of "dead people, body parts" and with feelings of sadness, anger, guilt, increased anxiety with marked autonomic physical symptoms (intense when driving in traffic, crowded rooms, public speaking), fatigue, decreased appetite, anhedonia, and marked avoidance behaviors/triggers. At the time, he had no history of past mental health treatment. Thereafter, as set forth in the AO, Petitioner underwent several years of mental health treatment, was eventually diagnosed with PTSD, and was assigned periods of limited duty during his service. According to the Certificate of Release or Discharge from Active Duty (DD Form 214), Petitioner was discharged on 19 April 2022 due to completion of his required service with an Honorable characterization of service and assigned an RE-R1 reentry code; which meant that he was eligible for reenlistment.

c. As an exhibit to his application, Petitioner provided a rating decision from the Department of Veterans Affairs (VA) reflecting that, post-service, and effective the day after he left active duty, the VA awarded to him a service connected disability rating of 50% due to PTSD. Enclosure (1) at exhibit 53.

d. During his service, Petitioner received continuation pay under the Blended Retirement System (BRS continuation pay), which was reflected in his Leave and Earning Statement (LES) for the period 1 March 2022 to 31 March 2022 as "BR CONT PAY" in the amount of \$10,563.75. Enclosure (1) at exhibit 55. After he was discharged, the Defense Finance and Accounting Service (DFAS) sought recoupment of the continuation pay. Enclosure (1) at exhibit 56. Petitioner paid DFAS the amount due in full and this was confirmed by a letter from DFAS to Petitioner dated 24 March 2023. Enclosure (1) at exhibit 58. In the meantime, on 14 November 2022, Petitioner sought to have his debt remitted. By letter dated 23 October 2023, the Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs) denied Petitioner's request, explaining that the "debt was incurred when you did not fulfill the obligated service for which you received continuation pay (CP) under the Blended Retirement System." Enclosure (1) at exhibit 59. The denial letter further explained that, in Petitioner's case, his "certificate of release or discharge from active duty (DD-214) indicates that your separation was

voluntary. Additionally, the reentry code on your DD-214 indicates you are eligible for reenlistment. Accordingly, your request for remission of debt is denied.”

e. In his application to this Board, Petitioner requests that his discharge be corrected to reflect that at the time he was separated from service, he was placed on the PDRL due to PTSD with a 50% rating. He also requested to be repaid the money that was recouped for his BRS continuation pay. In support of his requests, Petitioner provided a variety of service record documents, medical records, pay records, VA records, a legal brief, and a personal statement. He argued that, as a result of his combat experiences on active duty, he developed PTSD, and that, at the time of his discharge, he should have been referred into the Disability Evaluation System (DES). He states further that, at the time he was due to reenlist, he was informed he was ineligible to reenlist due to his mental health condition and was instead separated at the end of his current obligated service. He argues that the failure to refer him to the DES was both an error and an injustice. In his personal statement and his legal brief, Petitioner described psychological trauma he experienced during his combat deployments to Afghanistan as a Hospital Corpsman providing care to both service members and local civilians, many times including his close friends. He stated further that, during his service, he remained compliant and committed to his mental health treatment throughout his course of therapy but continued to experience severe psychological symptoms and impairments leading to being placed on limited duty.

f. Regarding his BRS continuation pay, Petitioner argued that in March 2022, he received a mid-career retention incentive bonus. However, he contends, he was forced to discharge from the Navy and that, service members who are medically retired as a result of a combat-related disability are entitled to the entirety of any incentive bonuses if they are unable to fulfill an associated service obligation. Here, according to Petitioner, because his chronic PTSD was directly incurred in combat, this provision applies in the event that the Board corrects his records to reflect a retroactive medical retirement. Thus, should the Board grant him any retroactive medical retirement, he requests conforming corrections to his records removing the previous bonus recoupment so that he may receive back pay of the continuation pay due to his incurring PTSD in a combat zone which led to his retirement.

g. The Board observed that it needed specialized medical analysis in understanding Petitioner’s application. Thus, the Board obtained the enclosure (2); which was considered favorable to Petitioner’s request to be placed on the PDRL. The AO evaluated Petitioner’s service and medical records as well as the documentation provided by Petitioner. According to the AO, after reviewing all available objective clinical and non-clinical evidence, at the time of Petitioner’s discharge from naval service, he suffered from a medical condition that prevented him from reasonably performing the duties of his office, grade, rank, or rating and warranted greater consideration for referral to the DES. The AO explained that, from October 2017 until the time that he discharged from service, “Petitioner required continuous and increasing range of mental health treatments in the face of continued moderate to severe psychological symptoms that worsened despite appropriate mental health treatment” and that this ultimately resulted in his “inability to continue to function in his military occupational specialty and being returned early to Hawaii from his UDP deployment to Japan due to being found Unfit for Full Duty and not worldwide assignable to commence a period of Limited Duty for a higher level of focused mental health treatment without attendant occupational stressors or interference with his treatment requirements.” Further, according to the AO, Petitioner’s last available psychological

therapy note, which was dated 17 March 2022, “discussed referring Petitioner to a Medical Evaluation Board due to his continued PTSD, depressive, and anxiety symptoms with determination he was Unfit for Duty and not worldwide deployable.” Next, in the final psychiatric clinical note, dated 22 March 2022, the “psychiatrist continued the diagnosis of PTSD, noted he had a request for second period of Limited Duty pending and was requesting referral to a Medical Evaluation Board, as well as documenting a range of active and continuing psychological symptoms yet concluded the note by saying he was Fit for Duty and Deployability, without adequate explanation of the change in duty status determination.”

h. With respect to Petitioner’s contention that he was forced to leave the Navy, the AO found that there was “no evidence of command notification or counseling that Petitioner was ‘unfit for reenlistment’ or documentation of how that was determined.” On the other hand, the AO noted that there was “no evidence of a final Separation Physical Examination determining Petitioner was physically qualified (Fit) for separation, a determination of significance given the 4.5 years of active mental health treatment and last six months before discharge of placement on a period of Limited Duty for Unfitness.”

i. Next, the AO considered Petitioner’s reliance on the VA’s grant of Petitioner service-connected disability benefits for his PTSD condition. On this point, the AO set forth the standard that this Board applies, explaining that VA disability ratings are issued without regard to the issue of fitness, which reflects that post-service VA disability ratings are not often persuasive on matters of fitness while in service. However, according to the AO, in Petitioner’s case, the VA disability evaluation that diagnosed Petitioner’s PTSD based its findings on his in-service medical records and identified the source of his PTSD to be from his combat deployments. In addition, the VA disability evaluation occurred within three weeks from Petitioner’s discharge date. These facts rendered the findings of the VA to be insightful.

j. In light of its analysis, the AO determined that, “should consideration of Petitioner’s request for relief be granted, it is recommended Petitioner be referred to the Physical Evaluation Board for consideration of placement on the Permanent Disability Retired List (PDRL) for: 1. Post-Traumatic Stress Disorder (VA Code 9411), permanent and stable, combat related (CR), combat zone (CZ) at a disability evaluation to be determined.” Finally, the AO concluded, “in my medical opinion, the preponderance of objective clinical evidence provides sufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service and should have been referred to the DES for evaluation of fitness for continued service and consideration for possible medical retirement.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting relief. In reaching its decision, the Board substantially concurred with the findings of the AO, that there is sufficient support for consideration of Petitioner’s contention that, at the time of his discharge, he should have been placed into the DES and that, as a result of review by a PEB, he would have likely been placed on the PDRL due to his PTSD. Inasmuch as Petitioner’s request involves a request to change to his discharge based on PTSD, the Board considered the application of Clarifying Guidance set forth in references (b) through (d). In addition, in his enclosure (1) application, Petitioner urged the Board to apply liberal and special

consideration pursuant to 10 U.S.C. § 1552(h). In its review of this issue, however, the Board determined that an application of the Clarifying Guidance or of liberal consideration as urged by Petitioner was unnecessary in order to reach its result.

In particular, and as noted above, the Board observed that the AO appeared to be rational and based on substantial evidence. The Board found to be particularly persuasive the chronology of Petitioner's service coupled with an overlay of the timing of the manifestation of his mental health symptomology and lengthy course of treatment while in service. Further, as noted by the AO, as Petitioner reached the last few months of his obligated service, medical records reflect he was in discussion of potentially being referred to a medical evaluation board, but there is no further information on the disposition of that matter. Further, the AO pointed out the absence of a final Separation Physical Examination (SPE). The Board found the absence of an SPE to be significant because this Board applies the presumption of regularity to claims for service disability retirements, and the fact that a service member would be cleared as fit for separation by a medical professional as they reached their discharge date is oftentimes a key factor in applying the presumption; which may result in a finding of no error in a service member's separation without a service disability retirement. Here, no SPE was found and, when considered in combination with Petitioner's extensive mental health treatment leading up to his discharge, history of LIMDU, and temporal VA rating of 50% for his PTSD, the Board found it sufficient to overcome the presumption of regularity that he was medically cleared to separate.

The Board acknowledged that it does not usually find post-service findings by the VA to be persuasive because they are manifestation-based and do not purport to make a finding of fitness for naval service. This factor is also coupled with the fact that having a medical or mental health diagnosis (either diagnosed while in service or by the VA post-service) does not necessarily mean that a service member is unfit for service. That said, in this case, the Board found it persuasive that medical professionals linked the cause of Petitioner's PTSD to his combat experience and the fact that the VA evaluated Petitioner for his condition very shortly after service and assigned a rating of 50%. In reaching its decision, the Board also considered the application of 38 CFR § 4.129, reference (f), which provides that where a "mental disorder that develops in service as a result of a highly stressful event is severe enough to bring about the veteran's release from active military service, the rating agency shall assign an evaluation of not less than 50 percent and schedule an examination within the six month period following the veteran's discharge to determine whether a change in evaluation is warranted." The Board considered this provision in the context that, although Petitioner's PTSD did not, overtly, cause his release from active naval service (which was in fact reflected as due to having reached the completion of his required service), he was, in fact, found to have a 50% disability rating by the VA very shortly after his release from active duty. These facts, coupled with the substantial medical evidence described within the AO, convinced the Board that there was an error in Petitioner's naval record and that, at the time of his discharge, he should have been reviewed within the DES. In terms of relief, the Board adopted the finding of the AO and further determined that a 50% disability rating was appropriate under the circumstances and was consistent with both the finding of the VA and reference (f). The Board further determined that Petitioner's disability condition was combat zone and combat related and that associated relief should follow in the form of appropriate conforming changes to Petitioner's DD Form 214 described below.

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The Board then considered Petitioner's request for repayment of the recoupment of his BRS continuation pay. The Board determined that, had Petitioner been placed on the PDRL at the time of his discharge based on combat-related injuries, his BRS continuation pay would not have been recouped under the provisions of reference (g). Those provisions state, as a "general rule, repayment action may not be pursued in situations in which the member's inability to fulfill specified service conditions related to a pay or benefit is due to circumstances determined reasonably beyond the member's control." Those provisions also provide, specifically, that if a member "[i]ncurs an injury or illness, through no misconduct of the member, that precludes the member from fulfilling the service conditions specified in the written agreement, [and] the member is separated or retired for disability under 10 U.S.C., Chapter 61 then repayment of the unearned portion of the pay or benefit will not be sought." Reference (g) at Table 2-1. Thus, the Board determined that relief in the form of return of the recouped amount was appropriate.

RECOMMENDATION

In view of the above, the Board directs the following corrective action.

That Petitioner be placed on the PDRL effective the date of Petitioner's discharge from service as unfit for the following condition:

1. Post-Traumatic Stress Disorder, VA Code 9411, permanent and stable, 50%, Combat Related (CR), Combat Zone (CZ).

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting Narrative Reason and Authority: Disability, Permanent (CZ/CR); separation program designator and reentry code: As appropriate.

That Petitioner's BRS continuation pay that was recouped be returned to him in the appropriate amount as determined by the DFAS.

The DFAS shall audit the Petitioner's pay account for payment of any monies due in relation to any back pay to the date of Petitioner's discharge as well as the aforementioned return of the recoupment of his pay.

That a copy of this record be placed in Petitioner's official military personnel file.

That no other changes be made to Petitioner's 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 Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

9/5/2025

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