



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

■
Docket No. 12167-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■, USN,
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Ref: (a) 10 U.S.C. §1552
(b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," 3 September 2014
(c) PDUSD (P&R) Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI)," 24 February 2016
(d) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review 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," 25 August 2017
(e) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Determinations," 25 July 2018
(f) NAVPERS 15560B, Naval Military Personnel Manual, 1987
(g) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) NAVPERS 1070/605, History of Assignments
(4) NAVPERS 1070/613, Administrative Remarks, 4 November 1988
(5) NAVPERS 1070/607 (P601-7R), Court Memorandum, 16 February 1989
(6) NAVPERS 1070/613, Administrative Remarks, 16 February 1989
(7) NAVPERS 1070/607 (P601-7R), Court Memorandum, 28 February 1989
(8) NAVPERS 1070/613, Administrative Remarks, 20 September 1989
(9) NAVPERS 1070/607 (P601-7R), Court Memorandum, 1 May 1990
(10) Standard Form 600, Health Record – Chronological Record of Medical Care, 21 August 1990
(11) ■ (■) CO Memo 1900 014, subj: Notice of an Administrative Board Procedure Proposed Action in the case of [Petitioner], 8 October 1990
(12) Petitioner's Memo, subj: Statement of Awareness and Request for, or Waiver of Privileges in the case of [Petitioner], 8 October 1990

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- (13) [REDACTED] Message, subj: [Petitioner]; Recommendation for Administrative Separation by Reasons of Misconduct, dtg 091904Z OCT 90
- (14) COMNAVMIIPERSCOM Message, subj: Misconduct Discharge ICO [Petitioner], dtg 151842Z OCT 90
- (15) VA Form 21-0781, Statement in Support of Claimed Mental Health Disorder(s) due to an In-Service Traumatic Event(s), 15 November 2024 (with Letter from [REDACTED], MD, 20 November 2024)
- (16) BCNR Memo Docket No. NR20240012167, subj: Advisory Opinion ICO [Petitioner], 7 April 2025
- (17) Department of Veterans Affairs, Review Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire, 13 November 2024

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, hereinafter referred to as the Board, requesting that his characterization of service be upgraded to honorable.

2. A three-member panel of the Board, meeting in executive session, considered Petitioner's allegations of error or injustice on 28 May 2025 and, pursuant to the Board's governing policies and procedures, determined by a majority vote that the equitable relief recommended below is warranted in the interests of justice. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include references (b) – (e).

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

a. Before applying to this Board, the 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, it is in the interests of justice to waive the statute of limitation and consider Petitioner's application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty service on 10 June 1987. See enclosure (2).

d. On 5 December 1987, Petitioner reported for duty aboard the [REDACTED] ([REDACTED]). See enclosure (3).

e. On 4 November 1988, Petitioner was formally counseled in writing regarding deficiencies in his performance and/or conduct. Specifically, the following conduct deficiencies were noted: disobedience of the orders of his supervising petty officer; sleeping on duty; unauthorized absence (UA) from his place of duty; poor work performance; and poor attitude. He was warned that further deficiencies in his performance and/or conduct may result in disciplinary action and possible processing for administrative separation. See enclosure (4).

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f. On 16 February 1989, Petitioner received non-judicial punishment (NJP) for failure to go to his appointed place of duty in violation of Article 86, Uniform Code of Military Justice (UCMJ). He was restricted and required to perform extra duty for 20 days; and required to forfeit \$100 pay per month for one month. See enclosure (5).

g. Upon receipt of the NJP described in paragraph 3f above, Petitioner was again formally counseled in writing regarding deficiencies in his performance and/or conduct. He was again warned that further deficiencies could result in disciplinary action and processing for administrative separation. See enclosure (6).

h. On 28 February 1989, Petitioner received his second NJP for three specifications of UA in violation of Article 86, UCMJ. He was required to forfeit \$100 pay per month for one month. See enclosure (7).

i. On 20 September 1989, Petitioner received his third NJP for dereliction of duty by sleeping on watch in violation of Article 92, UCMJ. He was restricted and required to perform extra duty for 30 days; and reduced to the next inferior pay grade. See enclosure (8).

j. On 1 May 1990, the Petitioner received his fourth NJP for failure to obey a lawful order in violation of Article 92, UCMJ. He was restricted and required to perform extra duty for 30 days; and reduced to the next inferior pay grade. See enclosure (9).

k. Iraq invaded Kuwait on 2 August 1990. On 7 August 1990, the [REDACTED] and her battle group were ordered to deploy in defense of Kuwait for [REDACTED] [REDACTED]. The battle group arrived in the [REDACTED] on 23 August 1990.

l. On 21 August 1990, Petitioner was referred for a medical evaluation based upon the complaints of fellow shipmates in his berthing area that he was having nightmares. The record of this evaluation reflects that his dreams were apparently being vocalized in his sleep but were causing Petitioner no concern. It also reflects that Petitioner desired to complete his enlistment. See enclosure (10).

m. By memorandum dated 8 October 1990, Petitioner was formally notified via the administrative board procedures that he was being considered for an administrative discharge for misconduct due to a pattern of misconduct as evidenced by his four NJPs. See enclosure (11). Petitioner acknowledged this notice on the same day and waived his right to an administrative discharge board. He also indicated that he did not object to the proposed separation. See enclosure (12).

n. By message dated 9 October 1990, Petitioner's commander recommended that Petitioner be discharged from the Navy under other than honorable (OTH) conditions for misconduct due to a pattern of misconduct. In making this recommendation, he commented that Petitioner "has been a constant burden to this command as evidenced by his numerous disciplinary problems. Despite frequent counseling regarding his performance, personal behavior and disciplinary infractions, [Petitioner] has made no attempt to conform to acceptable standards of behavior. Since [Petitioner] appeared at NJP in May of 1990, his performance has been poor and his

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personal behavior substandard resulting in numerous counseling sessions and imposition of [extra military instruction].” See enclosure (13).

o. By message dated 15 October 1990, the separation authority directed that Petitioner be discharged from the Navy under OTH conditions for misconduct due to a pattern of misconduct. See enclosure (14).

p. On 25 October 1990, Petitioner was discharged from the Navy under OTH conditions for misconduct due to a pattern of misconduct. See enclosure (2).

q. On 15 November 2024, Petitioner submitted a statement in support of his claim for disability compensation from the Department of Veterans Affairs (VA). This statement was as follows:

During my time in service, I was exposed to the death of my grandfather, combat encounters, fear of hostile forces, mishaps during training, and toxic leadership/ high-stress command. These incidents had a profound impact on my mental health and overall well-being. The immediate effects included heightened anxiety, an overwhelming sense of fear, and difficulty concentrating on my duties, leading to challenges in my military performance. I struggled with decision-making under stress and found my ability to stay focused compromised, which impacted my effectiveness as a service member.

Over time, I began experiencing severe nightmares that replayed these traumatic events vividly. These nightmares disrupted my sleep, leaving me fatigued and increasingly irritable, which further affected my daily functioning. The fear of hostile forces was constant, making it difficult to trust my surroundings and maintain situational awareness. This ongoing hypervigilance caused significant distress and prevented me from achieving the mental clarity needed to fulfill my responsibilities effectively.

The long-term psychological strain has persisted beyond my service, continuing to affect my quality of life, relationships, and ability to function in civilian settings.

Petitioner’s claim for disability compensation from the VA was supported by a letter dated 20 November 2024 from his treating psychiatrist reporting Petitioner’s diagnoses of Adjustment Disorder (with mixed anxiety and depressed mood); post-traumatic stress disorder (PTSD); and insomnia, and attributing these conditions to the traumatic experiences and events of Petitioner’s military service.¹

¹ Petitioner’s treating psychologist reported that Petitioner described his training at bootcamp as “one of his most traumatic experiences” in the Navy. Specifically, Petitioner allegedly reported that he continues to experience a sense of unease in situations where he feels his breath is restricted due to the “intense panic and fear of suffocation” he experienced in a gas chamber during chemical warfare training. He also described Petitioner’s recall of the intensity of his firearms training, and “the loud blasts and the physical strain it caused.” Petitioner’s treating psychologist also reported the “pervasive sense of fear” and “constant state of alert” that Petitioner described during his deployment, as well as the “constant gunfire and blasts during combat operations aboard the [REDACTED].” Finally, Petitioner’s treating psychologist reported the emotional burden that Petitioner carried “throughout his service” due to the passing of his grandfather during his deployment.

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See enclosure (15).

r. Petitioner requests that the Board consider the circumstances surrounding his discharge, “particularly the mental health challenges of PTSD that [he] developed and faced while in the military, as well as other mitigating mental health factors, and the profound impact of [his] grandfather’s passing during [his] service.” The traumatic experiences that he described essentially mirrored those he reported in his claim for disability compensation from the VA (see paragraph 3q above).² He insists that his behavior in the Navy was not reflective of his true character or the values he upheld throughout his service, but rather “were largely a manifestation of [his] unaddressed mental health issues.” Petitioner reported receiving a Bachelor’s Degree in Aerospace Sciences from [REDACTED] with a 3.91 grade point average (GPA), and a Master of Business Administrative (MBA) from the [REDACTED] with a 3.63 GPA since his discharge, and that he has engaged in significant volunteer activity as a member of the [REDACTED] [REDACTED] fraternity. Petitioner included the same third-party statements in support of his present application as he provided with his application for disability compensation from the VA. See enclosure (1).

s. Because he based his request for relief upon his claimed mental health conditions, Petitioner’s application and records were reviewed by a licensed clinical psychologist who provided an advisory opinion (AO) for the Board’s consideration. Based upon her review of Petitioner’s application and records, the licensed clinical psychologist found that there was insufficient evidence to establish any nexus between Petitioner’s reported mental health condition(s) and his misconduct, “particularly given misconduct prior to purported traumatic precipitants.” While acknowledging the post-service evidence of Petitioner’s PTSD diagnosis and other mental health concerns that may be attributable to Petitioner’s military service, the licensed clinical psychologist found insufficient evidence to attribute Petitioner’s misconduct to PTSD or another mental health condition.³ See enclosure (16).

MAJORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Majority of the Board determined that equitable relief is warranted in the interests of justice.

The Majority found no error in Petitioner’s discharge under OTH conditions for misconduct due to a pattern of misconduct when it was administered. In accordance with paragraph 3630600.1b(1)(b) of reference (f), a Sailor could be discharged for misconduct based upon a pattern of misconduct evidenced by three or more punishments under the UCMJ within the current enlistment. Petitioner received NJP, which is punishment under the UCMJ, on four separate occasions over the course of his enlistment, so the factual predicate for separation upon this basis was satisfied. Even assuming Petitioner’s claims to be true, PTSD would not provide a defense to any of the misconduct for which Petitioner received NJP. It also appears that all

² Petitioner included witnessing the aftermath of the attack upon the [REDACTED] while it was docked next to the [REDACTED] in [REDACTED], [REDACTED], amongst the traumatic events contributing to his mental health condition(s). However, the [REDACTED] bombing did not occur until October 2000, approximately a decade after his discharge.

³ A copy of this AO was sent to Petitioner for comment under cover of a letter dated 7 April 2025, but he failed to provide any response.

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procedural requirements were satisfied to sustain Petitioner's discharge upon this basis, as Petitioner was counseled on multiple occasions regarding the deficiencies in his conduct to provide him the opportunity to correct his behavior, and was properly notified via the administrative board procedures regarding the basis for his proposed administrative discharge. Upon receipt of this notice, Petitioner voluntarily waived all of his rights with regard to the administrative discharge process and indicated that he did not object to his proposed separation. Finally, in accordance with paragraph 3630600.3, discharges based upon misconduct were normally under OTH conditions. Although none of Petitioner's individual acts of misconduct were particularly egregious, the severity of a pattern of misconduct is based upon the nature of the pattern itself rather than upon the individual acts which comprise the pattern. In this regard, Petitioner's pervasive pattern of misconduct throughout the course of his naval service was deserving of the characterization assigned.

Because he based his request for relief in whole or in part upon his claimed combat-related PTSD condition, the Majority reviewed Petitioner's application pursuant to the guidance of references (a) - (d). Accordingly, the Majority reviewed Petitioner's application with liberal consideration that his claimed combat-related PTSD condition contributed to the circumstances resulting in his discharge under OTH conditions in accordance with reference (a), and applied liberal consideration to his claimed PTSD condition and the effect that condition may have had upon his conduct in accordance with references (b) - (d). Through the application of very liberal consideration, the Majority found sufficient evidence to conclude that Petitioner may have developed PTSD during his naval service. The Majority reached this conclusion despite the absence of any credible evidence of his claimed PTSD condition and Petitioner's questionable claims regarding his naval service. The only evidence in the record that Petitioner developed PTSD during his naval service was the letter provided by his treating psychiatrist at enclosure (15), which was obviously an advocacy letter rather than an objective medical opinion. The Majority found that letter to lack any credibility for several reasons. First, Petitioner's treating psychologist attributed his PTSD diagnosis in part to the "trauma" that Petitioner experienced during bootcamp. However, Petitioner did not experience any trauma during bootcamp. Rather, he experienced the routine training that all new recruits must endure. His reported hyperbolic reaction to that training may have revealed him to be particularly ill-suited to military service, but even with the application of extremely liberal consideration that training experience cannot credibly be characterized as a "traumatic" experience which might trigger PTSD. By attributing his PTSD condition to these decidedly non-traumatic experiences, Petitioner's treating psychiatrist revealed his lack of objectivity in assisting his patient's effort to obtain VA disability benefits. Second, Petitioner's treating psychiatrist attributed his PTSD diagnosis in part to the death of Petitioner's grandfather. The Majority did not doubt that this death adversely affected Petitioner's emotionally, but it was not a traumatic event that might contribute to PTSD. Petitioner was not present for his grandfather's death, and the adverse impact upon him described was his grief and overwhelming sadness. These are not symptoms of PTSD. Finally, Petitioner's treating psychiatrist attributed Petitioner's loss of rank and OTH discharge to emotional toll resulting from "[t]he combination of nightmares and unresolved trauma from his experiences during boot camp and Desert Storm [leaving him] feeling increasingly isolated." However, Petitioner lost his rank and received committed all of the misconduct for which he was ultimately discharged before the [REDACTED] set sail for the Persian Gulf, and his medical records reflect that he experienced nightmares prior the arrival of the [REDACTED] in the

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Persian Gulf. Due only to the mandate of references (b) – (d) to apply liberal consideration, the Majority found sufficient evidence that Petitioner's brief experience in the [REDACTED] might have resulted in PTSD, even though he exaggerated the traumatic effect of the early days of [REDACTED] (vice [REDACTED]). However, even assuming that Petitioner developed PTSD as a result of his approximately two months in the [REDACTED] preceding the commencement of any combat operations, the Majority found that such a condition could not logically have excused or mitigated any of the misconduct for which Petitioner was discharged. All of the misconduct contributing to the pattern upon which Petitioner's discharge was based occurred prior to the [REDACTED] deployment in support of [REDACTED]. As such, all of it preceded the first experience during Petitioner's military service which could remotely be described as traumatic. Accordingly, even applying liberal consideration the Majority found that PTSD did not excuse or mitigate the misconduct in question. Despite finding insufficient evidence to conclude that Petitioner's claimed PTSD condition excused or mitigated the misconduct for which he was discharged, the Majority considered the existence of PTSD amongst the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice, as discussed below.

In addition to applying liberal consideration to Petitioner's claimed PTSD condition and its potential impact upon the misconduct for which Petitioner was discharged in accordance with references (a) – (d), the Majority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Majority considered, amongst other factors, the entirety of Petitioner's service, to include his deployment in support of [REDACTED]; that Petitioner may have developed PTSD as a result of his deployment experience and presumably would have continued suffering its effects long after his discharge; that Petitioner was apparently particularly ill-suited to military service as evidenced by his reported hyperbolic reaction and response to routine military training, and therefore may have been less capable of conforming his conduct to that expected of a Sailor; Petitioner's post-service academic and professional accomplishments and volunteer activities; the letters of support provided for the Board's review; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. The Majority determined found these mitigating factors sufficient to justify modest equitable relief. Specifically, the Majority determined that these mitigating factors sufficiently outweighed the severity of Petitioner's discharge to justify the equitable upgrade of his OTH discharge characterization to general (under honorable conditions).

Although the Majority found the mitigating factors to sufficiently outweigh the severity of Petitioner's misconduct to justify the equitable relief described above, it did not find those mitigating factors to so significantly outweigh the severity of Petitioner's misconduct to justify the extraordinary relief that he requested. As noted above, the severity of a pattern of misconduct is based not upon the individual acts of misconduct but upon the nature of the pattern itself. Petitioner's naval career was essentially defined by his pattern of misconduct. He received four NJPs in just over three years of service, and the record reflects that those four NJPs did not capture all of his misconduct. Accordingly, the Majority could not justify recharacterizing Petitioner's service as fully honorable when it clearly was not.

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MAJORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that his service ending on 25 October 1990 was characterized as "General (under honorable conditions)." All other entries reflected on Petitioner's current DD Form 214 are to remain unchanged.

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

That no further corrective action be taken on Petitioner's naval record.

MINORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Minority of the Board found insufficient evidence of any error or injustice warranting relief.

The Minority concurred with the Majority conclusion that there was no error in Petitioner's discharge under OTH conditions for misconduct due to a pattern of misconduct when it was administered.

Like the Majority, the Minority also reviewed Petitioner's application with liberal consideration that combat-related PTSD contributed to the circumstances of his discharge under OTH conditions in accordance with reference (a) and applied liberal consideration to Petitioner's claimed mental health condition(s) and their potential impact upon his conduct in accordance with references (b) – (d). Unlike the Majority, however, the Minority found insufficient evidence to conclude that Petitioner developed PTSD during his naval service even while applying extremely liberal consideration to his claim. As noted by the Majority, the only evidence in the record that Petitioner suffered from PTSD was the temporally remote diagnosis and letter provided by his treating psychiatrist in 2024. The absence of any objectivity and/or credibility in this letter was described in the Majority conclusion above. Further, the conclusions discussed in this letter were based only upon Petitioner's self-reported experiences, and his own credibility in this regard was demonstrably questionable. Finally, even while trying to facilitate the receipt of VA disability benefits for his patient, Petitioner's treating psychiatrist could conclude only that "it is at least as likely as not that Petitioner's mental health condition was related to his military service." While those are the magic words to satisfy the criteria for receipt of VA disability benefits, they do not satisfy the burden of proof for correction of his military record pursuant to reference (a). Petitioner's predilection for misconduct was established long before he experienced anything even remotely traumatizing in the military, and even that experience generously relied upon by the Majority to find the potential for PTSD was grossly exaggerated since it predated the outbreak of combat operations. Since his treating psychiatrist's letter was the only evidence supporting his claim, the Minority found no credible evidence in the record to support Petitioner's claim to have developed PTSD during his military service. While the liberal consideration guidance of references (a) – (d) significantly lessens the Petitioner's

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burden to prove the existence of a mental health condition, it does not negate that burden and Petitioner simply did not satisfy it.

The Minority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Minority considered the same potentially mitigating factors as did the Majority. However, having found insufficient evidence that Petitioner ever developed PTSD during his naval service, the Minority assigned significantly lesser weight to the mitigating factors than did the Majority. The Minority also noted that enclosure (17) revealed that Petitioner was arrested twice since his discharge from the Navy, which would tend to offset the mitigating factors which might otherwise tend to weigh in favor of equitable relief.⁴ Finally, the Minority noted that Petitioner was less than candid in his efforts to obtain disability benefits from the VA and relief from this Board when he claimed to have been emotionally effected by witnessing the aftermath of the [REDACTED] bombing from the deck since that bombing did not occur until 10 years after his discharge. The Minority found such dishonesty to heavily weigh against the grant of equitable relief. Accordingly, the Minority found the mitigating factors insufficient to justify any equitable relief.

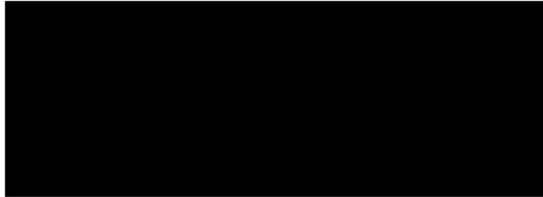
MINORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Minority of the Board recommends that no corrective action be taken on 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 titled matter.

5. The foregoing action of the Board is submitted for your review and action in accordance with Section 6e(1)(2) of Enclosure (1) to reference (g).

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⁴ In accordance with paragraph 7d of the Attachment to reference (e), the Board should consider post-service conduct, including arrests, in determining whether to grant relief on the basis of an injustice.

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

- ____ MAJORITY Recommendation Approved (Partial Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)
- X MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)
- ____ Petitioner’s Request Approved (Full Relief – I generally concur with the Majority conclusion that equitable relief is warranted given the totality of the circumstances, but I do not believe that the relief recommended by the Majority goes far enough to serve the interests of justice. Specifically, I found that the mitigating circumstances did so significantly outweigh the severity of Petitioner’s relatively minor misconduct to justify the relief he requested. Accordingly, I direct that Petitioner be issued a new DD Form 214 reflecting that his service ending on 25 October 1990 was characterized as “Honorable”; that the narrative reason for his separation was “Secretarial Authority”; that his separation authority was “MILPERSMAN 3630900”; that his separation code was “JFF”; and that his reentry code was “RE-1.” Petitioner shall also be issued an Honorable Discharge Certificate.)

