



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

[REDACTED]
Docket No. 346-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering 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," 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 Clemency Determinations," 25 July 2018
(f) NAVPERS 15560C, Naval Military Personnel Manual, 15 August 1991
(g) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 September 1997

Encl: (1) DD Form 149, 26 December 2024 (with attachments)
(2) Standard Form 86, Questionnaire for National Security Positions
(3) DD Form 214
(4) NAVPERS 1070/605, History of Assignments
(5) [REDACTED] Department of Health, Division of Vital Statistics Supplementary Medical Certification (Petitioner's Brother's Death Certificate)
(6) P601-7R, Court Memorandum, 9 January 1998
(7) [REDACTED] ([REDACTED]) CO Memo 1910 Ser LEG/032, subj: [Petitioner], Recommendation for Administrative Separation by Reason of Misconduct due to Drug Abuse (3630620), 2 February 1998
(8) [REDACTED] Message, subj: Admin Discharge ICO [Petitioner], dtg 181920Z FEB 98
(9) DD Form 149 (Docket No. 3415-23), 4 March 2023 (with attachments)
(10) Minute Order, in the case of People vs. [Petitioner], in the Superior Court of the State of [REDACTED], [REDACTED], Case No. [REDACTED] 12 August 2022
(11) Department of Veterans Affairs Rating Decision, 11 October 2022

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

- (12) Department of Veterans Affairs Administrative Decision (Character of Discharge Determination; Health Care Benefits under Chapter 17), 17 June 2022
- (13) Diagnosis and Treatment Plan (issued by [REDACTED] Psy.D.), 3 June 2023
- (14) BCNR Memo Docket No: NR20230003415, subj: Advisory Opinion ICO [Petitioner], 24 August 2023
- (15) BCNR Letter Docket No: NR20230003415, 25 August 2023
- (16) BCNR Letter [REDACTED] Docket No. 3415-23, 24 October 2023
- (17) Petitioner's Letter, subj: Response to Advisory Opinion ICO [Petitioner], 2 May 2024 (with attachments)
- (18) BCNR Memo Docket No. 346-25, subj: Advisory Opinion ICO [Petitioner], 23 April 2025
- (19) BCNR Letter Docket No: NR20250000346, 23 April 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, hereinafter referred to as the Board, requesting an upgrade to his discharge characterization to honorable.¹

2. The Board reviewed Petitioner's allegations of error or injustice pursuant to its governing policies and procedures on 25 July 2025 and determined by a majority vote that the corrective action recommended in paragraph 6 below should be taken upon his naval record 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. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record and the evidence provided with his application:

- a. During his enlistment process, Petitioner disclosed pre-service marijuana use on four occasions between September 1991 and December 1995 and a previous conviction for possession of illegal fireworks in July 1995. See enclosure (2).
- b. Petitioner enlisted in the Navy and commenced a period of active duty service on 7 May 1996. See enclosure (3).
- c. Petitioner reported for his first duty assignment aboard the [REDACTED] ([REDACTED]) on 8 September 1996. See enclosure (4).
- d. On 21 March 1997, Petitioner's brother died due to an overdose of heroin. See enclosure (5).

¹ Petitioner's application constitutes a request for reconsideration of the Board's previous denial of his similar request in Docket No. 3415-23. Specifically, Petitioner requested reconsideration of the Board's decision in Docket No. 3415-23 based upon his submission of his response to the advisory opinion (AO) relied upon by the Board in Docket No. 3415-23, which he had previously failed to submit in a timely manner.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

e. On 24 December 1997, Petitioner wrongfully used cocaine in violation of Article 112a, Uniform Code of Military Justice (UCMJ).² See enclosure (6).

f. On 9 January 1998, Petitioner received non-judicial punishment for the cocaine use referenced in paragraph 3e above. He was restricted and required to perform extra duties for 45 days; required to forfeit \$463 pay per month for two months; and reduced to the next inferior pay grade. See enclosure (6).

g. On 21 January 1998, Petitioner was formally notified via the administrative board procedures that he was being processed for administrative separation for misconduct due to drug abuse “as evidenced by all drug incidents in current enlistment.” See enclosure (7).

h. Petitioner acknowledged the notice referenced in paragraph 3g on the same date that he received it and presumably waived all of his rights with regard to the administrative discharge process.³ See enclosure (7).

i. By memorandum dated 2 February 1998, Petitioner’s commander recommended that Petitioner be discharged from the Navy under other than honorable (OTH) conditions for misconduct due to drug abuse. In making this recommendation, Petitioner’s commander opined that Petitioner was a detriment to good order and discipline. See enclosure (7).

j. By message dated 18 February 1998, the separation authority directed that Petitioner be discharged from the Navy under OTH conditions for misconduct due to drug abuse. See enclosure (8).

k. On 27 February 1998, Petitioner was discharged from the Navy under OTH conditions for misconduct due to drug abuse. See enclosure (3).

l. In 2005, Petitioner pled guilty to a felony charge of driving under the influence (DUI) while causing injury to another in violation of [REDACTED] Vehicle Code (VC) 23153(a). However, his sentence was suspended and he was placed on probation. See enclosures (9) and (10).

m. On 18 July 2022, the Superior Court of the State of [REDACTED] ([REDACTED]) set aside Petitioner previous plea of guilty to [REDACTED] VC § 23153(a) referenced in paragraph 3l above based upon his compliance with the terms of his probation. The Court also reduced his violation from a felony to a misdemeanor at his request. See enclosure (10).

² Petitioner asserts that he was struggling mentally with his brother’s death and the holidays and decided to go to a local bar where he found several patrons discretely using cocaine. He further claims that he accepted their offer to use some to help cope with his mental anguish. See enclosure (9).

³ A copy of this acknowledgment and waiver of rights was not found in Petitioner’s naval record. In the absence of evidence to the contrary, the Board applies the presumption of regulation to establish that all procedural requirements were satisfied to sustain a discharge. Petitioner provided no evidence or even argument to the contrary. Since Enclosure (6) reflects that an administrative discharge board was not convened, the Board presumes that Petitioner must have waived his right to such a hearing.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

n. In April 2022, Petitioner submitted a claim for disability benefits from the Department of Veterans Affairs (VA) for several conditions, to include post-traumatic stress disorder (PTSD). See enclosure (11).

o. On 11 August 2022, Petitioner underwent a compensation and pension (C&P) examination pursuant to his claim for disability benefits from the VA for PTSD referenced in paragraph 3n above. The medical examiner opined that his claimed PTSD condition “was less likely than not [sic] (less than 50 percent probability) incurred in or caused by the claimed in-service injury, event or illness” and that the stressor event claimed (i.e., his brother’s death due to heroin overdose) did not meet the diagnostic criteria for PTSD. See enclosure (11).

p. On 27 June 2022, Petitioner’s naval service was determined to be honorable for VA purposes because the record did not reflect that he was discharged for willful and persistent misconduct. Accordingly, the VA determined him to be eligible for disability compensation and medical treatment for service-connected conditions despite his OTH discharge from the Navy. See enclosure (12).

q. By letter dated 14 October 2022, the VA granted Petitioner service connection for an Anxiety Disorder and Traumatic Brain Injury (TBI) (claimed as depression), amongst other conditions claimed, with a 30 percent disability rating.⁴ However, the VA denied Petitioner’s claim for PTSD based upon the results of his C&P examination referenced in paragraph 3o above. See enclosure (11).

r. On 3 June 2023, Petitioner was diagnosed with PTSD by a licensed clinical psychologist.⁵ See enclosure (13).

s. As of 26 December 2024, the VA had increased Petitioner’s total combined disability rating to 100 percent. However, it is not clear from the evidence provided what this increased disability rating was based upon.⁶ See enclosure (1).

4. Procedural Background.

a. Petitioner first applied for relief from the Board in April 2023.⁷ Specifically, he asserted that he suffered severe depression and guilt after his brother’s sudden death on 21 March 1997 throughout the course of an extended sea tour which commenced just days after his brother’s

⁴ Petitioner’s total combined disability rating was 50 percent.

⁵ This diagnosis was obtained after he submitted his previous application in Docket No. 3415-23, and Petitioner did not provide it to the Board for consideration before it convened to consider his case.

⁶ Petitioner provided only a single-page excerpt of his most recent VA rating decision which acknowledged the PTSD diagnosis referenced in paragraph 3r above. However, nothing in that excerpt established that the VA granted Petitioner service connection for PTSD. To the contrary, the VA explicitly noted that the diagnosis evidenced at enclosure (13) did not cite the diagnostic criteria for PTSD and stated that Petitioner was service connected for the anxiety disorder diagnosed during the VA C&P examination of 11 August 2002 (see paragraph 3q above).

⁷ Petitioner’s signature on his original DD Form 149 was dated 4 March 2023 and his personal statement accompanying that DD Form 149 was dated 25 February 2023, but his application package was not received by the Board until 14 April 2023.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

death but before his funeral.⁸ He claims that he continued to struggle during the holidays that year and went to a bar just a few months after turning 21, where he was offered cocaine, and that he decided to accept to cope with his mental anguish. He believes it doubtful that he would receive the same characterization of service today under similar circumstances and asserts that his service was otherwise honorable. Petitioner claims to have cleaned up his life after struggling with alcohol for many years and provided evidence of his post-service professional success as a hair stylist and instructor. He also provided several character references from family members and colleagues. See enclosure (9).

b. Because Petitioner based his request for relief in whole or in part upon his claimed mental health conditions, the Board sought an AO from a mental health professional. By memorandum dated 24 August 2023, the Board's Physical Advisor, who is a psychologist, and a licensed clinical psychologist provided a joint AO after reviewing Petitioner's application and records. Specifically, these two mental health professionals jointly opined that there was sufficient evidence from the VA to conclude that Petitioner suffered from TBI and an anxiety disorder during his military service; insufficient evidence that Petitioner suffered from PTSD during his naval service; and insufficient evidence to attribute any of Petitioner's misconduct to a mental health condition. With regard to the latter conclusion, they found that Petitioner's personal statement was not sufficiently detailed to provide any nexus between his TBI/anxiety disorder and his misconduct, especially considering the gap between his brother's death and his misconduct. See enclosure (14).

c. Under cover of a letter dated 25 August 2023, a copy of the AO referenced in paragraph 4b above was forwarded to Petitioner for comment. This letter informed Petitioner that he had 30 days to submit any further statements or additional documentary evidence for consideration by the Board. See enclosure (15).

d. When Petitioner failed to provide any response to letter referenced in paragraph 4c above,⁹ a three-member panel of the Board convened to consider his application based upon the evidence of record in Docket No. 3415-23 on 6 October 2023 and found insufficient evidence of any material error or injustice.¹⁰ Even applying liberal consideration in accordance with references (b) – (d), the Board could not reconcile Petitioner's claim to have used cocaine to cope with his grief regarding his brother's death with the gap in time between that death and his cocaine use.¹¹ The Board also struggled to understand why Petitioner would choose to self-medicate the grief he felt for a death caused by his brother's use of a dangerous drug with another dangerous drug. The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with reference (e), but simply found the mitigating factors insufficient to justify any relief. See enclosure (16).

⁸ Petitioner checked the boxes in block 13 of his DD Form 149 indicating that PTSD, TBI, and "Other Mental Health" conditions were related to his request.

⁹ Because Petitioner did not provide a response to the AO, the Board had no evidence of the PTSD diagnosis referenced in paragraph 3r above when it convened to consider his case in Docket No. 3415-23. Absent that diagnosis, there was no evidence in the record to support Petitioner's claimed PTSD condition, and the VA's denial of his claim for disability benefits for PTSD tended to refute that claim.

¹⁰ This decision was communicated to Petitioner by letter dated 24 October 2023.

¹¹ In this regard, the Board mistakenly concluded that Petitioner's cocaine use occurred on 24 December 1998, a year later than it actually did, which artificially extended the gap between his brother's death and his cocaine use.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

e. Petitioner finally provided a response to the AO referenced in paragraph 4b above in May 2024, long after his case had been closed. Specifically, he provided the evidence referenced in paragraph 3r above that he had been diagnosed with PTSD, as well as numerous treatment records to refute the conclusion of insufficient evidence of PTSD.¹² Petitioner also noted the Board's mistake referenced in footnote 11, asserting that there was only a nine month gap between his brother's death in March 1997 and his cocaine use in December 1997 (vice the nearly two-year gap mistakenly found by the Board in Docket No. 3415-23). Because Docket No. 3415-23 had already been closed, Petitioner was encouraged to submit a new DD Form 149 requesting reconsideration. See enclosure (17).

f. Petitioner submitted a new DD Form 149 requesting reconsideration of the Board's decision in Docket No. 3415-22 in January 2025.¹³ This application was virtually identical to his previous application in Docket No. 3415-23 except for inclusion of the matters referenced in paragraph 4e above. See enclosure (9).

g. Because Petitioner's based his request for reconsideration in whole or in part upon his claimed mental health conditions, the Board sought another AO from a mental health professional. By memorandum dated 23 April 2025, the licensed clinical psychologist provided an AO after reviewing Petitioner's application and records, opining that there is post-service evidence from the VA of TBI and an anxiety disorder diagnosis and from a civilian psychologist of a PTSD diagnosis that may be attributed to his naval service, but insufficient evidence that his misconduct may be attributed to these conditions. Specifically, the licensed clinical psychologist opined that "it is difficult to attribute his misconduct to a mental health concern related to his brother's death, given the gap in time between the two events with no evidence of mental health concerns requiring referral or intervention." See enclosure (18).

h. Under cover of a letter dated 23 April 2025, a copy of the AO referenced in paragraph 4g above was forwarded to Petitioner for comment.¹⁴ This letter informed Petitioner that he had 30 days to submit any further statements or additional documentary evidence for consideration by the Board. See enclosure (19).

i. When Petitioner again failed to provide any response after 30 days passed after issuance of the letter referenced in paragraph 4h above, a three-member panel of the Board convened to reconsider the decision in Docket No. 3415-23 and reached the conclusions discussed in paragraph 5 below.

¹² These records documented Petitioner's treatment for Prolonged Grief Disorder; Anxiety Disorder; Severe Depression; and PTSD.

¹³ Petitioner's signature on this DD Form 149 was dated 26 December 2024, but it was not received by the Board until 17 January 2025.

¹⁴ This letter was sent to both the physical address and the e-mail address provided by Petitioner on his DD Form 149.

5. Conclusions.¹⁵

- a. Petitioner's personal appearance was not necessary to assist the Board to understand the issues associated with Petitioner's application. Accordingly, his request for a personal appearance before the Board was denied.
- b. The Board found no error in Petitioner's discharge for misconduct due to drug abuse when it was executed. In accordance with paragraph 3630620.1(a)(1) of reference (f), a Sailor could be separated by reason of misconduct due to drug abuse based upon one or more instances of the illegal or wrongful use of a controlled substance. Petitioner's wrongful use of cocaine is not in controversy, as it was documented in his naval record and Petitioner does not deny such use in his current application. Additionally, none of Petitioner's claimed mental health conditions would provide an affirmative defense to such illegal drug use even assuming as true his claim that his use was to self-medicate the symptoms of those conditions. Accordingly, the factual predicate for Petitioner's discharge upon this basis was satisfied. It also appears that all procedural requirements to sustain this discharge were satisfied, as Petitioner's command utilized the administrative board procedures in accordance with paragraph 3630620.3(a) of reference (f) and Petitioner acknowledged that he was being processed for administrative separation and waived his rights in that regard. Although the documentation pertaining to Petitioner's administrative discharge process was not present in his record, the Board presumes in the absence of evidence to the contrary that all procedural requirements were satisfied to discharge Petitioner under OTH conditions for misconduct due to drug abuse. In this regard, Petitioner provided no evidence or even argument to the contrary. Accordingly, the Board found insufficient evidence of any procedural error in Petitioner's discharge.
- c. The Board also found no error in Petitioner's discharge under OTH conditions. In accordance with paragraph 3630620.2(a) of reference (f), a discharge for misconduct due to drug abuse is normally under OTH conditions. In fact, approval of a more favorable discharge characterization would have required approval of the Chief of Naval Personnel, and an honorable discharge was not even authorized unless Petitioner's record was otherwise so meritorious that any other characterization would be clearly inappropriate in accordance with paragraph 3630620.2(c) of reference (f). Accordingly, there was no error in assigning the default OTH characterization to Petitioner's discharge for misconduct due to drug abuse.
- d. Because Petitioner based his request for relief in whole or in part upon his claimed mental health condition(s), to include his claimed PTSD condition, the Board reviewed his application in accordance with the guidance of references (b) – (d). Accordingly, the Board applied liberal consideration to the existence of Petitioner's claimed mental health conditions during his naval service and to the effect of that those mental health conditions may have had upon the conduct for which he was discharged. Through the application of such liberal consideration, the Board found sufficient evidence to conclude that Petitioner was suffering from several mental health conditions, to include depression and perhaps even PTSD, during his naval service. Even though Petitioner failed to provide the Board with evidence supporting his claim that the VA has granted him service-connection for PTSD and the evidence of record suggests that he did not satisfy the

¹⁵ Except as noted in paragraphs 5d and 5e below, the Board's conclusions were unanimous.

diagnostic criteria for PTSD, the Board granted him the benefit of the doubt and accepted as true his claim to have suffered from PTSD or a trauma-related condition after his brother's tragic death. In accordance with reference (d), the Board also found the VA's decision granting Petitioner service connection for an anxiety disorder to be persuasive evidence that that condition existed during his naval service. The Board could not, however, reach a consensus regarding whether Petitioner's liberally-considered mental health conditions mitigated his illegal drug use.

(1) Applying liberal consideration, the Majority of the Board found, contrary to the AO at enclosure (18), that there was sufficient evidence to conclude that Petitioner's cocaine use was mitigated by his mental health conditions. Specifically, the Majority did not agree with the AO's conclusion that there was insufficient evidence of any nexus between Petitioner's drug use and his grief resulting from his brother's death. It was reasonable to believe that Petitioner would feel such deep-seated unresolved grief given the circumstances of his brother's death and his own inability to obtain any closure, and that he might seek temporary relief from that unresolved grief through the use of illegal drugs. The Majority also did not agree that the nine-month gap between his brother's death and his drug use necessarily undermined this nexus because Petitioner spent most of that period at sea and therefore had limited opportunities to resolve his grief or obtain such relief. Accordingly, through the application of liberal consideration, the Majority believed that Petitioner's illegal drug use was mitigated by his mental health conditions related to the grief he suffered following his brother's death.¹⁶

(2) Even applying liberal consideration, the Minority of the Board found insufficient evidence to conclude that Petitioner's illegal drug use was excused or mitigated by his mental health conditions. In this regard, the Minority agreed with the AO conclusion that it is difficult to attribute Petitioner misconduct to the mental health symptoms related to his brother's death given the gap in time between the death and his drug use. Besides this delay, the Minority also believed that the circumstances of Petitioner's drug use suggested that his use was not actually to self-medicate his mental health symptoms. Specifically, Petitioner chose to use cocaine in a social setting with reported strangers at a bar shortly after he became old enough to frequent such establishments. Under these circumstances, the Minority believed that Petitioner's cocaine use was far more likely recreational in nature than self-medicating as he claims. Petitioner's pre-service history of recreational drug use contributed to this conclusion, as it undermines an suggestion that he was otherwise unlikely to use illegal drugs but for the circumstances of his brother's death. Finally, the Minority harbored significant doubts that Petitioner's would turn to the use of a dangerous drug to self-medicate for the grief he claimed to be suffering for his brother's death due to the abuse of another dangerous drug. Under the circumstances, the Minority believed that Petitioner's recreational cocaine use was not reasonably attributed to the mental health symptoms resulting from his brother's death, and that his misconduct was therefore not mitigated by his mental health conditions. Although the Minority did not believe that Petitioner's mental health conditions mitigated the misconduct for which he was discharged, it nonetheless considered the existence of those conditions during his naval service amongst the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice as discussed in paragraph 5e(2) below.

¹⁶ The Majority did not find Petitioner's mental health conditions to excuse his illegal drug use. None of his claimed conditions would provide an affirmative defense to such use.

e. In addition to applying liberal consideration to Petitioner's claimed mental health conditions and their potential effect upon his misconduct in accordance with references (b) – (d), the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (e). However, the Board could not reach a consensus in this regard.

(1) The Majority considered, amongst other factors, the mitigating effect of Petitioner's mental health conditions upon the misconduct for which he was discharged, as discussed in paragraph 5d(1) above; the relatively minor and isolated nature of Petitioner's misconduct; that Petitioner would be less likely to be discharged from the Navy under OTH conditions for a single instance of drug use today than he was in 1998; Petitioner's post-service rehabilitation efforts and his claim to have turned his life around to be a good husband and father; Petitioner's post-service professional success as a hair stylist despite the stigma of his OTH discharge, which reflects favorably upon his character and resilience; the favorable character references provided for review; Petitioner's expressed regret for not being allowed to complete his naval service; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since his discharge. The Majority found these mitigating factors sufficient to justify some equitable relief in the interests of justice. In particular, the Majority simply found the lifelong stigma of an OTH discharge to be unduly harsh given the isolated nature of Petitioner's misconduct and the passage of time, especially considering the mitigation of his offense afforded by his mental health conditions. Specifically, the Minority determined that these mitigating factors were sufficient to justify an equitable upgrade of Petitioner's characterization of service to "General (under honorable conditions)." Additionally, although not specifically requested, the Majority also believed these mitigating factors sufficient to justify an equitable change of his narrative reason for separation to alleviate the stigma associated with his naval service. Although the Majority found the mitigating factors to sufficiently outweigh the severity of his misconduct to justify this equitable relief, 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. In this regard, the Majority found that it would be unjust to the thousands of other Sailors who have successfully completed their respective enlistments without engaging in conduct worthy of an involuntary discharge to characterize Petitioner's service in the same manner as theirs, especially considering that many of those other Sailors did so in spite of their own challenges and traumas. Accordingly, the Majority did not believe an upgrade of Petitioner's discharge characterization to fully honorable to be warranted in the interests of justice.

(2) The Minority considered the same potentially mitigating factors as did the Majority but found them insufficient to justify any equitable relief in the interests of justice. First, having found insufficient evidence to conclude that Petitioner's illegal drug use was mitigated by his claimed mental health conditions, as discussed in paragraph 5d(2) above, the Minority applied significantly lesser weight to the mitigating factors favoring equitable relief than did the Majority. The Minority also noted that Petitioner was convicted of a felony DUI which resulted in injury since his discharge. In accordance with paragraph 7d of the Attachment to reference (e), the Board should consider negative post-service conduct, including any arrests or convictions, when determining whether to grant relief on the basis of an injustice. The Minority found such conduct to significantly offset the other mitigating factors which might otherwise

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

warrant equitable relief. Accordingly, the Minority did not find any equitable relief to be warranted in the interests of justice.

6. Recommendations.

a. *Majority Recommendations.* Based upon its conclusions as discussed in paragraph 5 above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

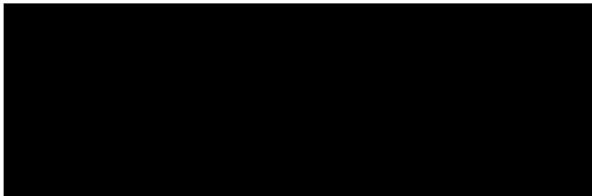
- (1) That Petitioner be issued a new DD Form 214 reflecting that his service ending on 27 February 1998 was characterized as "General (under honorable conditions)"; that the narrative reason for this separation was "Secretarial Authority"; that his separation authority was "MILPERSMAN 3630900"; and that his separation code was "JFF." All other entries reflected on Petitioner's current DD Form 214, to include his reentry code, are to remain unchanged.
- (2) That a copy of this record of proceedings be filed in Petitioner's naval record.
- (3) That no further corrective action be taken on Petitioner's naval record.

b. *Minority Recommendation.* Based upon its conclusions as discussed in paragraph 5 above, the Minority of the Board recommends that no corrective action be taken on Petitioner's naval record.

7. 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.

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

11/13/2025



Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USN, [REDACTED]

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

X MAJORITY Recommendation Approved (Partial Relief - I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority in paragraph 6a above.)

— 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's conclusion that equitable relief is warranted in the interests of justice, but do not believe that the relief recommended by the Majority in paragraph 6a above goes far enough to serve the interests of justice. Specifically, I found that the mitigating factors did so significantly outweigh the relatively minor misconduct for which Petitioner was discharged such as to justify the equitable relief that he requested. Accordingly, I direct the corrective action recommended by the Majority in paragraph 6a above, except that Petitioner's service shall be characterized a "Honorable" on his newly issued DD Form 214. Petitioner shall also be issued an Honorable Discharge Certificate.)

