



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

██████████
Docket No. 348-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures
(2) Advisory Opinion (AO) of 23 Apr 25

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 punitive discharge be upgraded to "Honorable" and that his rank be reinstated to the paygrade of E-4. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 6 June 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board considered enclosure (2), the advisory opinion (AO) furnished by qualified mental health provider, which was considered favorable to Petitioner's contentions.

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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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b. Petitioner enlisted in the Marine Corps after receiving a drug use waiver and began a period of active duty on 10 April 2000.

c. During his military service, Petitioner deployed in support of Operation [REDACTED] [REDACTED] during which he earned the Combat Action Ribbon (CAR) and Presidential Unit Citation (PUC), and campaign and sea service awards.

d. Petitioner was awarded the Good Conduct Medal on 9 April 2003.

e. On 10 July 2003, the Naval Drug Laboratory reported Petitioner's urine sample positive for marijuana use.

f. On 27 August 2003, Petitioner was subject to nonjudicial punishment (NJP) for a violation of Article 112a of the Uniform Code of Military Justice (UCMJ) based upon his positive urinalysis for marijuana use.

g. On 4 September 2003, Petitioner's officer-in-charge recommended that he be retained until his end of active obligated service date based upon his need for continued medical attention due to his diagnosis of PTSD.

h. On 12 November 2003, a Medical Board reviewed Petitioner's diagnoses of PTSD and Major Depression and determined that he was non-deployable, suited only for administrative duties, and should be placed on a four-month period of limited duty.

i. On 13 January 2004, Petitioner's commanding officer recommended that he be discharged under honorable conditions (GEN) notwithstanding that the basis of his separation was by reason of misconduct due to drug abuse. In pertinent part, he noted that Petitioner had "been very mentally unstable" and had been issued medication through the Department of Veterans Affairs (VA) incident to his PTSD diagnosis. Further, he explicitly stated, "I believe he abused drugs due to his mental condition."

j. On 2 February 2004, Petitioner waived his right to a hearing before an administrative separation board, electing only to submit a statement in which he agreed, as a condition of suspended separation, to commit to abstaining from the use of controlled substances for the remainder of his enlistment. He was subsequently formally notified, on 25 March 2004, of processing for administrative separation by reason of misconduct due to drug use.

k. Petitioner's discharge with a characterization of GEN was approved and he was discharged accordingly on 21 May 2004.

l. Petitioner contends that he had no disciplinary issues prior to his combat deployment and he incurred both PTSD and a traumatic brain injury (TBI), to include in-service diagnosis of his PTSD with three months of post-discharge in-patient treatment and ongoing psychiatric treatment, for which he has submitted substantiating medical evidence. He seeks liberal consideration of his mental health concerns with respect to his request to upgrade his discharge.

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His personal statement details additional factors of having received meritorious promotion, having performed as the company guide-on bearer prior to deploying, and also describes in detail the factors and traumatic experiences which contributed to him incurring combat-related PTSD and his symptoms of recurrent nightmares. He provides post-discharge evidence in the form of transcripts and confirmation of his charitable donations, and states that he works as an accountant. He also states that he volunteers to mentor youth through a program with the [REDACTED] Police Department.

m. Because Petitioner contends a mental health condition, the Board also requested enclosure (2), the AO, for consideration. The AO stated in pertinent part:

Petitioner contended his misconduct was due to self-medication of undiagnosed symptoms of PTSD and depression. He contended that he witnessed traumatic incidents while on a combat deployment to [REDACTED], including discovering an infant's severed limb. He stated that he reported his mental concerns and self-medication of substance use to his chaplain, and that his extenuating circumstances were considered during his separation from service. Petitioner has been granted service connection for TBI, effective August 2010; and PTSD with Major Depressive Disorder and Generalized Anxiety Disorder with panic attacks, effective November 2010. He provided evidence of character and post-service accomplishment.

There is in-service evidence that the Petitioner was diagnosed with PTSD and another mental health condition attributed to his military service. Post-service, the VA has also granted service connection for TBI. There is evidence that in-service, he reported to his command that his substance use was related to his combat service.

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

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in references (b) through (e).

In this regard, the Board noted Petitioner's drug abuse misconduct and does not condone it. However, the Board concurred with the AO that Petitioner's misconduct may be attributed to PTSD or another mental health condition. Additionally, the Board gave significant weight to his commanding officer's observation that he believed Petitioner had used marijuana due to his mental health condition. Further, the Board took into consideration Petitioner's service was distinguished by his overall proficiency and conduct marks, and also by his award of the CAR

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and PUC during his combat deployment. In light of liberal consideration of Petitioner's contended PTSD, TBI, and mental health concerns in addition to his evidence of post-service character and accomplishments, the Board found that the totality of favorable matters in support of Petitioner's fully Honorable service outweighed the single instance of drug abuse misconduct which resulted in his discharge. Accordingly, the Board determined that it is in the interest of justice to grant Petitioner an upgrade to his characterization of service.

Notwithstanding the recommended corrective action below, the Board found insufficient evidence that his NJP for violation of Article 112a was either erroneous or unjust, or that his reduction in paygrade was unduly harsh. Therefore, the Board determined that his reduction in paygrade was supported by the evidence and remains appropriate. Finally, based on the same rationale, the Board further determined his reason for separation and reentry code remains appropriate. Ultimately, the Board found that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period endin 21 May 2004, he was discharged with an "Honorable" characterization of service.

That Petitioner be issued an Honorable Discharge certificate.

That no further changes be made to Petitioner's record.

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 Regulation, 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.

6/30/2025

