



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

██████████  
Docket No. 360-25  
Ref: Signature Date

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

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

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) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018  
(e) Official Military Personnel File

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting: (1) he be granted a medical retirement after convening a new MEB and PEB, or in the alternative, (2) to upgrade his discharge from General (Under Honorable Conditions)" to Honorable.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 24 April 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, together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include all references, in particular references (b) through (d); 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 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo), hereinafter collectively referred to as the "Clarifying Guidance." The Board also received undated supplemental

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material from Petitioner; which was received by the Board on 27 March 2025 and included with Petitioner's application.

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

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

b. A review of reference (e) revealed that Petitioner enlisted in the Marine Corps and commenced active duty on 8 January 2018. On 4 December 2020, Petitioner was recommended to be administratively separated by a psychologist at [REDACTED] as follows. The psychologist diagnosed Petitioner with Adjustment Disorder with Depressed Mood. According to the psychologist, Petitioner, "attributes his emotional dysfunction to serving in a marine environment and he has noticed that when removed from that environment, his symptoms abate. He has no desire to remain in the marines and feels that if he continues to serve, his emotional state will continue to decline." The psychologist continued:

b. Impairment: Patient has had significant symptoms of depression and anxiety in the context of marine duty, including brief suicidal thoughts. These symptoms have the potential to progress if not allowed to administratively separate, which could be detrimental to the marine as well as the command.

3. The member has a medical condition incompatible with military service but does not amount to a physical disability.

a. Per references (a) and (c). Manual of the Medical Department, chapter 18 and in review of the member's clinical history in the course of the evaluation, there is no basis for referral to the Physical Evaluation Board (PEB).

b. The member's condition is so severe that the member's ability to function effectively in the military environment is significantly impaired.

c. The member does not have a diagnosis of service-related traumatic brain injury.

d. The member does not have a diagnosis of service-related post-traumatic stress disorder.

e. The member does not have a history of other mental illness co-morbidity.

4. The aforementioned diagnosis and treatment recommendations were discussed with and understood by the member.

5. Further medical treatment, though recommended, is unlikely to result in symptom resolution.

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c. Consistent with the recommendation of the psychologist, on 26 February 2021, Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith. The reason for separation was Convenience of the Government due to Condition, Not a Disability. On 27 March 2021, Petitioner's battalion commanding officer recommended to the separation authority, via his chain of command, that Petitioner be discharged. On 4 April 2021, Petitioner's headquarters commanding officer provided his endorsement to the separation authority, explaining that he "carefully reviewed the respondent's Separation History and Physical Examination (SHPE) and Medical Evaluation Board (MEB) report addressing the basis for separation" and that Petitioner's medical condition "is not a ratable disability, and they have no potential for future military service." the headquarters commanding officer recommended that Petitioner be administratively separated for the Convenience of the Government: Condition not a Disability and that discharge characterization be General (Under Honorable Conditions). On 23 April 2021, the separation authority (a general officer) directed Petitioner's separation for a condition, not a disability with a General (Under Honorable Conditions) characterization of service. On 4 May 2021, Petitioner was so discharged.

d. In his application, Petitioner requests: (1) he be granted a medical retirement after convening a new MEB and PEB, or in the alternative, (2) to upgrade his discharge from General (Under Honorable Conditions) to Honorable. In support of his requests, Petitioner stated that his medical records clearly and convincingly evince that he experienced dangerous suicidal ideation, which required inpatient supervision which should have entailed a more serious diagnosis and medical retirement through a medical evaluation board (MEB), and that to allow him to continue to suffer with his physical and cognitive issues as a result of his Marine Corps service without the opportunity to be medically retired would be a perversion of the medical retirement process. He provided a legal brief along with enclosures including medical and service record documents with his petition. In his legal brief, he further asserted that he was the "victim of a material error of fact regarding the discretion shown by commanding officers and staff psychologists" by discharging him with a General (Under Honorable Conditions) instead of an Honorable discharge through a medical retirement. In support of his request to be upgraded to an Honorable discharge, Petitioner argued that he committed no misconduct and cited reference (c) arguing that his mental health conditions should mitigate his discharge.

e. The Board provided Petitioner a copy of the reference (b) for his information and he provided a response on 27 March 2025; which the Board fully considered. In his response, Petitioner provided a letter from a psychologist at the Department of Veterans Affairs (VA), which highlighted that he has had over 27 psychotherapy sessions and that he is actively being treated for Major Depressive Disorder, Persistent Depressive Disorder, and Generalized Anxiety Disorder. Petitioner also provided a copy of a VA decision letter reflecting that he has a post-service VA disability rating of 100% attributed to Major Depressive Disorder. He further argued that he never had any mental health disorders prior to service, and he developed his mental health conditions while serving.

## CONCLUSION

In keeping with the letter and spirit of the Clarifying Guidance, the Board gave liberal and special consideration to Petitioner's record of service, and his contentions about any traumatic or

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stressful events he experienced, and their possible adverse impact on his service. In reaching its decision, the Board fully considered the Clarifying Guidance and followed the Vazirani Memo. Thus, it first applied liberal consideration to Petitioner's assertion that his mental health condition potentially contributed to the circumstances resulting in his discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assessed his claim of medical unfitness for continued service due to his mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

Thus, the Board began its analysis by examining whether his mental health condition actually excused or mitigated his discharge and determined that it did not need to rely on any such matters in order to grant him relief. On this point, the Board observed that Petitioner's discharge characterization of General (Under Honorable Conditions) did not appear to be supported by his record. The Board considered that Petitioner's average proficiency and conduct marks during his enlistment were 4.4 and 4.3, respectively. These marks, along with the absence of any documented misconduct or performance deficiencies, demonstrated to the satisfaction of the Board that there was an error in Petitioner's naval record. Specifically, the Board determined Petitioner was qualified to receive an Honorable characterization of service and that he should receive such a characterization. In reaching its decision, the Board did not need to rely on application of Clarifying Guidance. The Board found no other errors or any injustice in Petitioner's discharge from the Marine Corps with or without its application of Clarifying Guidance.

With respect to the next step of review under the reference (b), *viz.*, the Board's analysis of Petitioner's request for a service disability retirement, the Board observed there is insufficient evidence that he had an unfitting condition while he was on active duty such that he should have been placed into the Disability Evaluation System or otherwise retired due to an unfitting condition. On this point, the Board carefully considered the medical documentation that was developed during his service as well as the entirety of the documentation provided by Petitioner in both his petition and his supplemental materials. As a result of its analysis, the Board noted the finding by the psychologist at [REDACTED] that reported Petitioner attributed his emotional dysfunction to serving as a Marine and being in a "marine environment," and that Petitioner noticed when he was "removed from that environment, his symptoms abate." The Board felt this was strong evidence that Petitioner was symptomatic for an adjustment disorder and this was the sole basis for his unsuitability for continued military service. The Board also considered the VA documentation that Petitioner provided but it did not find that to be persuasive. On this point, the Board observed that the VA does not make determinations as to fitness for service as contemplated within the service disability evaluation system. Rather, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. In light of the foregoing, the Board was unable to find an error or injustice that Petitioner was not granted a service medical retirement.

Thus, in review of the entirety of Petitioner's requests, and in its application of special and liberal consideration where appropriate under the Clarifying Guidance, the Board granted

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Petitioner a discharge-related relief as set forth below but denied Petitioner's request for a disability retirement-related relief.

#### RECOMMENDATION

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

Petitioner shall be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 4 May 2021, indicating he was discharged with an "Honorable" characterization of service.

That Petitioner be issued an Honorable Discharge Certificate.

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

That no further changes be made to 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.

5/14/2025

