



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

Docket No. 429-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED], USN,
XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) 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
(c) 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
(d) MILPERSMAN 1910-152, Separation by Reason of Alcohol Rehabilitation Failure or Multiple Driving Under the Influence (DUI)/Driving While Intoxicated
(e) MILPERSMAN 1910-304, Description of Characterization of Service
(f) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 293, signed 18 December 2024 (w/attachments)
(2) DD Form 2807-1, Report of Medical History, 20 February 2002
(3) DD Form 214
(4) NAVPERS 1070/605, History of Assignments
(5) [REDACTED] CO Memo 5350 123, subj: Completion of ASAM Level 2.0 Intensive Outpatient Treatment for Alcohol Dependence ICO [Petitioner], 26 September 2003
(6) NAVPERS 1070/607, Court Memorandum, 6 November 2003
(7) NAVPERS 1070/613, Administrative Remarks, 6 November 2003
(8) NAVPERS 1616/26, Evaluation Report & Counseling Record (E1 – E6), 12 October 2004
(9) [REDACTED] CO Memo 1910 Ser N003/773, subj: [Petitioner], Recommendation for Administrative Separation, 20 June 2005
(10) Administrative Separation Processing Notice – Notification Procedure, 18 May 2005
(11) [REDACTED] CO Memo 1910 Ser N003/774, subj: Administrative Discharge ICO [Petitioner], 20 June 2005
(12) BCNR Memo Docket No. 00429-25, subj: Advisory Opinion ICO [Petitioner], 4 May 2025
(13) Response to Advisory Opinion, *in the matter of [Petitioner]* (Request for Records Correction), before the Navy Board for Correction of Naval Records Enlistment Contract, *undated*

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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 and his narrative reason for separation be changed to "Secretarial Authority."

2. A three-member panel of the Board, meeting in executive session, convened to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures on 8 August 2025 and determined by a majority vote that the corrective action reflected in paragraph 6a 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) and (c).

3. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record and/or the evidence provided with his application:

a. Petitioner disclosed pre-service marijuana use during his enlistment process.¹ See enclosure (2).

b. Petitioner enlisted in the Navy and commenced a period of active duty service on 24 June 2002. See enclosure (3).

c. Upon completion of his initial entry training, Petitioner reported for his first full-time duty assignment in [REDACTED] on 7 November 2002. See enclosure (4).

d. Petitioner received and completed Level II Alcohol Rehabilitation Intensive Outpatient Treatment at [REDACTED] from 3 - 26 September 2003. See enclosure (5).

e. On 6 November 2003, Petitioner received non-judicial punishment (NJP) for destruction of non-military property in violation of Article 109, Uniform Code of Military Justice (UCMJ), and disorderly conduct and drunkenness in violation of Article 134, UCMJ.² His punishment consisted of a reduction in grade; the forfeiture of \$678.45 pay per month for one month; and 14 days of restriction.³ See enclosure (6).

f. Petitioner was formally counseled in writing for the misconduct referenced in paragraph 3e above concurrently with the administration of NJP, through which he was warned that further conduct deficiencies could result in his administrative separation under other than honorable (OTH) conditions. See enclosure (7).

g. Petitioner failed to comply with the body composition standards during the Spring 2004 Physical Fitness Assessment. See enclosure (8).

¹ Petitioner reported a single incident of preservice marijuana use occurring in February 1996.

² According to the legal brief submitted with his application at enclosure (1), Petitioner broke the door of an off-base establishment by slamming it after the bartender refused to serve him any more alcohol.

³ The grade reduction and restriction punishments were suspended for six months.

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h. On 28 April 2005 Petitioner received his second NJP for violating a lawful order in violation of Article 92, UCMJ; and for being drunk on duty in violation of Article 112, UCMJ.⁴ His punishment consisted of a reduction in grade and 30 days of restriction.⁵ See enclosure (9).

i. On 18 May 2005, Petitioner was formally notified via the notification procedures that he was being considered for administrative separation for alcohol rehabilitation failure and for misconduct due to a pattern of misconduct. See enclosure (10).

j. On 25 May 2005, Petitioner acknowledged receipt of the notice referenced in paragraph 3i above and voluntarily waived his rights with regard to the administrative discharge process. See enclosure (10).

k. By memorandum dated 20 June 2005, Petitioner's commander informed Navy Personnel Command of his intent to administratively separate Petitioner from the Navy due to his alcohol rehabilitation failure with a general (under honorable conditions) characterization of service. He stated that this action was based upon Petitioner's "failure to live up to the personal conduct standards" despite his "respectable work ethic." See enclosure (9).

l. By memorandum dated 20 June 2005, the separation authority directed that Petitioner be administratively discharged from the Navy due to his alcohol rehabilitation failure with a general (under honorable conditions) characterization of service. See enclosure (11).

m. On 7 July 2005, Petitioner was discharged from the Navy for alcohol rehabilitation failure with a general (under honorable conditions) characterization of service. See enclosure (3).

4. Procedural Background.

a. Petitioner submitted a DD Form 293 to the Board in December 2024 requesting the corrective action discussed in paragraph 1 above.⁶ He asserted an error in his discharge in that his mental health issues were not taken into full consideration "during his previous appeals."⁷ Specifically, Petitioner insisted that he suffered from depression and unresolved grief resulting from the passing of his mother in October 2000 and the trauma associated with his father's own alcohol abuse, and that his assignment to [REDACTED] exacerbated his loneliness. In particular, he insisted that a discharge upgrade is warranted based upon the guidance of reference (b) and further asserted that equitable relief is warranted in accordance with the guidance of reference (c). In this regard, Petitioner provided several character references attesting to his loyalty, devotion, work ethic, and service to others. He also provided a personal statement expressing remorse for his conduct and describing his post-service accomplishments. See enclosure (1).

⁴ According to the legal brief submitted with his application at enclosure (1), Petitioner arrived at work on 19 March 2005 still intoxicated from drinking heavily the day prior and rendered a blood alcohol content of over 0.08 on a breathalyzer test.

⁵ The grade reduction punishment was suspended for six months.

⁶ Petitioner signed a DD Form 293 on 18 December 2024, and it was received with its supporting documentation by the Board on 30 December 2024. Although Petitioner submitted the incorrect form, the DD Form 293 was accepted by the Board in lieu of the required DD Form 149.

⁷ It is not clear what "previous appeals" Petitioner's attorney was referring to.

b. Because he based his request for relief in whole or in part upon his claimed mental health condition, Petitioner's application and records were reviewed by a Licensed Clinical Psychologist who provided an advisory opinion (AO) for the Board's consideration. The Licensed Clinical Psychologist found no evidence of any mental health diagnosis during Petitioner's service or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. She also noted that Petitioner provided a document from the Department of Veterans Affairs (VA) reflecting treatment for depression temporally remote to his service, and opined that Petitioner's personal statement was not sufficiently detailed to provide a nexus between his misconduct and a mental health condition. Accordingly, the Licensed Clinical Psychologist opined that there is insufficient evidence to conclude that Petitioner suffered from a mental health condition during his service, or to attribute his misconduct to any such condition. See enclosure (12).

c. Petitioner's attorney subsequently provided a three-page legal brief in response to the AO referenced in paragraph 4b above for the Board's consideration. In general, he insisted that Petitioner's claim to have suffered from a mental health condition is entitled to liberal consideration in accordance with reference (b). See enclosure (13).

5. Conclusions.⁸

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

b. Enclosure (1) was not filed in a timely manner, but the statute of limitations was waived in accordance with the guidance of reference (b).

c. The Board found no error in Petitioner's discharge for alcohol rehabilitation failure with a general (under honorable conditions) characterization of service when it was administered. In accordance with reference (d), "commands *shall* process for [administrative separation] all members considered to be treatment failures (*emphasis added*)" unless a written waiver is obtained. Reference (d) further defined a "treatment failure" to include "[a]ny member who incurs an alcohol related incident at any time in their career after a period of treatment at Level I or above, that was precipitated by a prior incident." Petitioner completed Level II alcohol rehabilitation treatment in September 2003 based upon an alcohol-related incident that occurred earlier that summer, and then showed up for duty intoxicated from alcohol consumption in March 2005. Accordingly, Petitioner was an alcohol treatment failure, and his command was obligated to process him for separation. It appears from the record that all procedural requirements to sustain Petitioner's discharge upon this basis were also satisfied. Specifically, reference (d) provides that the notification procedures shall be used to process Sailors for administrative separation upon this basis, and Petitioner voluntarily waived his right to submit any statement or evidence for consideration by the separation authority. While Petitioner's attorney insisted that the command should have taken Petitioner's mental health concerns into consideration in this regard, there was no evidence that Petitioner suffered from such a condition available for the command to consider at the time. Finally, the Board found no error or injustice in the characterization assigned to Petitioner's discharge under the circumstances. Reference (d)

⁸ Except as discussed in paragraph 5e below, the Board's conclusions were unanimous.

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provided that “[t]he characterization of separation [for an alcohol rehabilitation failure] should be General (Under Honorable Conditions)” unless an honorable discharge is otherwise warranted in accordance with reference (e). With two NJPs during his relatively short naval career, Petitioner’s service was not otherwise so meritorious that any characterization of service other than honorable would be clearly inappropriate. Accordingly, an honorable discharge was not otherwise warranted in accordance with reference (e), and the general (under honorable conditions) characterization assigned was appropriate and in accordance with reference (d).

d. Because Petitioner based his request for relief in whole or in part upon his claimed mental health condition, the Board reviewed Petitioner’s application in accordance with reference (b). Accordingly, the Board applied liberal consideration to Petitioner’s claim to have suffered from depression during his naval service and the effect that this condition may have had upon his conduct. Even applying liberal consideration, however, the Board found insufficient evidence to conclude that Petitioner suffered from depression or any other mental health condition during his naval service. Petitioner simply failed to provide the Board with any evidence to support this claim. The only medical evidence that Petitioner provided suggesting that he has ever suffered from depression was a treatment document from the VA which was temporally remote from his service and established no connection to his service. In this regard, the Board acknowledges that reference (b) provides that a Veteran’s statement alone may provide evidence of a claimed mental health condition. However, depression was not a condition unknown to medical professionals during Petitioner’s naval service, and there is nothing that would theoretically prevent Petitioner from obtaining a medical opinion that he suffered from depression during his naval service if in fact he did. While the liberal consideration guidance of reference (b) lessens Petitioner’s burden to prove the existence of any claimed mental health condition, it does not excuse him of that burden.

e. In addition to applying liberal consideration to Petitioner’s claimed mental health condition and its potential effect upon his conduct in accordance with reference (b), the Board also considered the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice in accordance with reference (c). In this regard, the Board considered, amongst other factors, the entirety of Petitioner’s naval record; that Petitioner’s commander commented upon Petitioner’s “respectable work ethic” in enclosure (9); the non-violent and relatively minor nature of Petitioner’s misconduct; that Petitioner apparently suffered from an alcohol abuse disorder, and that the misconduct in his record was alcohol-related; the emotional struggles that Petitioner described related to the unresolved grief resulting from the death of his mother and his father’s struggles with alcohol; the character references provided for the Board’s review; the evidence of Petitioner’s post-service rehabilitation and academic and professional accomplishments; the evidence of Petitioner’s post-service volunteer service in his community; Petitioner’s apparently sincere expression of remorse; Petitioner’s relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner’s discharge. Unfortunately, the Board did not find the combined weight of these potentially mitigating factors sufficient to justify an upgrade to Petitioner’s discharge characterization. If Petitioner had been discharged under OTH conditions, the Board likely would have been inclined to recommend an equitable upgrade to his discharge characterization based upon these mitigating factors. However, the Board would not have recommended an upgrade to a characterization more favorable than the general (under honorable conditions) characterization already reflected in Petitioner’s record. The combined weight of the mitigating factors simply did not so

significantly outweigh the negative aspects of Petitioner's record to justify such extraordinary relief. The Board also believed it would represent an injustice to recharacterize Petitioner's service such as to create no distinction between the quality of his service and that of the thousands of other Sailors who routinely complete their enlistments without engaging in similar conduct necessitating the premature termination of their enlistments. While the Board was unanimous in finding that no change is warranted to Petitioner's discharge characterization given the totality of the circumstances, it was split with regard to Petitioner's narrative reason for separation.

(1) While finding an equitable upgrade of Petitioner's discharge characterization to fully honorable not to be warranted given the totality of the circumstances, the Majority of the Board believed that the mitigating factors described above warranted at least some type of equitable relief. In particular, the Majority found Petitioner's post-service rehabilitation efforts, character references, and sincere expression of remorse to be persuasive. Accordingly, the Majority determined that Petitioner's narrative reason for separation should be equitably changed to "Secretarial Authority" to mitigate the stigma associated with his discharge.

(2) Unlike the Majority, the Minority of the Board did not find any equitable relief to be warranted in the interests of justice. To be clear, the Minority also found Petitioner's post-service rehabilitation efforts to be praiseworthy; as noted above, the Minority would have supported a discharge upgrade if Petitioner had been discharged under OTH conditions. However, the Minority also believed that Petitioner has already been the beneficiary of significant leniency. Specifically, Petitioner could have and probably should have been discharged for misconduct due to a pattern of misconduct rather than for his alcohol rehabilitation failure. A discharge for the former likely would have been under OTH conditions and produced a much more stigmatizing narrative reason for separation. The decision of Petitioner's command to separate him upon the less stigmatizing, but arguably more appropriate basis, has spared Petitioner the full stigma of his discharge for many years, which the Minority found to significantly offset those mitigating factors which might otherwise weigh in favor of equitable relief. Accordingly, the Minority determined that no equitable relief is warranted based upon the totality of the circumstances.

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 upon Petitioner's naval record in the interests of justice:

(1) That Petitioner be issued a new DD Form 214 reflecting that the narrative reason for his separation on 7 July 2005 was "Secretarial Authority"; that his separation authority was "MILPERSMAN 1910-164"; and that his separation code was "JFF." All other entries reflected on Petitioner's current DD Form 214, to include his characterization of service and 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 upon Petitioner's naval record.

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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 upon 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 6e(1)(b) of Enclosure (1) to reference (f).

1/20/2026



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 upon Petitioner's naval record.)
- ____ Petitioner's Request Approved (Full Relief – I do not concur with the Board's conclusions. Specifically, I found the combined weight of the mitigating factors to so significantly outweigh the negative aspects of Petitioner's record to justify the relief that he requested. Accordingly, I direct that Petitioner be issued a new DD Form 214 reflecting that his service ending on 7 July 2005 was characterized as "Honorable"; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MILPERSMAN 1910-164"; that his separation code was "JFF"; and that his reentry code was "RE-1." Petitioner shall also be issued an Honorable Discharge Certificate.)

