



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

██████████
Docket No. 0594-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████, USN, XXX-XX-██████████

Ref: (a) 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) USECDEF Memo of 25 Aug 17 (Kurta Memo)
(d) SECDEF Memo of 13 Sep 14 (Hagel Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion of 25 Apr 2025

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his discharge characterization of service be upgraded to Honorable with change of his narrative reason for separation, separation code, and reentry code to reflect Secretarial Authority.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 23 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, and applicable statutes, regulations, and policies, to include references (b) through (d). Additionally, the Board considered enclosure (4), the advisory opinion (AO) furnished by qualified mental health provider, and Petitioner's response to the AO.

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. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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

c. Petitioner enlisted in the Navy and began a period of active service on 31 July 2007. Prior to entering service, the Petitioner signed the Navy Illicit Behavior Screening Certificate denying prior to service experimentation with drugs.

d. On 8 August 2007, Petitioner was seen as an outpatient by the Psychology department. At that appointment, he reported a history of physical and psychological child abuse, multiple prior to service uses of cannabis, and one-time use of cocaine, mushrooms, and ecstasy.

e. On 15 August 2007, Petitioner was notified of administrative separation processing by reason of Defective Enlistments and Inductions – Erroneous Enlistment, and Defective Enlistments and Inductions – Fraudulent Entry into Naval Service, with a least favorable characterization of service of General (Under Honorable Conditions) (GEN). He waived all rights available to him in the separation process and his commanding officer recommended his discharge based on his failure to disclose pre-service drug use. He was discharged with an uncharacterized entry level separation on 31 August 2007. His narrative reason for separation stated “Fraudulent Entry Into Military Service, Drug Abuse.”

f. Petitioner contends he deserves to have his record changed based on his post-service accomplishments and the difficult home life he experienced as a child. He stated he suffered a turbulent childhood with a mother who abused narcotics on a regular basis, witnessed her attempt suicide twice, she pushed him down the stairs, hit him with open and closed fists, and hit him with a pan. He also alleges that she took him in front of their church congregation and told him he was useless. The emotional and physical abuse was so bad Child Protective Services had to get involved, he worked as a police officer following his discharge and earned the respect and appreciation of his coworkers. He further contends he has been honest and forthright about the circumstances that led to his discharge, has been punished enough, and deserves the opportunity to have his records updated to remove the unduly harsh information on his DD Form 214. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner’s application; which included his DD Form 149, a legal brief, service record documents, a personal statement, and three advocacy letters.

g. As part of the Board’s review, the Board considered enclosure (4). The AO states in pertinent part:

Petitioner was appropriately referred for and received a proper evaluation during his enlistment. His anxiety and substance use disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. His conditions were preexisting to entry into military service and not disclosed during pre-enlistment processing. It is likely that he may not have been accepted for enlistment if he had disclosed his substance use and mental health histories.

The AO concluded, “There is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service.”

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

In response to the AO, Petitioner submitted additional evidence in support of his case. After review of Petitioner's rebuttal evidence, the AO remained unchanged.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. Specifically, the Board determined the language, "drug abuse," in block 28 of Petitioner's DD Form 214 was entered in error. Therefore, the Board determined it was in the interest of justice to remove this language from Petitioner's DD Form 214 and make an associated change to his separation code.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's fraudulent enlistment discharge and uncharacterized entry level separation remain appropriate. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, Petitioner's requested relief and his previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant any further relief. The Board found no error or injustice in Petitioner's uncharacterized (entry level separation) for fraudulent enlistment since they accurately reflect the facts of his enlistment. First, the Board noted his service lasted only 30 days; which does not meet the 180 day threshold required for characterized service. Second, the Board found that Petitioner entered the Navy fraudulently by intentionally failing to disclose his extensive pre-service history of drug abuse. Lastly, the Board concurred with the AO in finding that there was insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to Petitioner's military service. Therefore, the Board determined that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not be held accountable for his actions.

While the Board carefully considered the evidence Petitioner submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting him the relief he requested or granting the requested relief as a matter of clemency or equity.

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

RECOMMENDATION

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214), for the period ending 31 August 2007, indicating he was discharged with the narrative reason of separation of "Fraudulent Entry" and a separation code of "JDA."

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

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

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

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.

7/3/2025

[REDACTED]