



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

Docket No. 1283-25

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, XXX-XX-[REDACTED]

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 14 May 2024

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his characterization of service be upgraded on his Certificate of Release or Discharge from Active Duty (DD Form 214) and that derogatory information be removed from his record. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 30 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 a qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, he chose not to do so.

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.

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c. Petitioner enlisted in the Navy after disclosing pre-service marijuana use and began a period of active service on 1 September 1999. After a period of continuous Honorable service, Petitioner immediately reenlisted and began a second period of active duty on 15 January 2003.

d. On 28 October 2003, Petitioner was issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct, specifically unauthorized absence (UA). On 12 March 2004, Petitioner received non-judicial punishment (NJP) for failure to obey a lawful order. Petitioner was issued Page 13 counseling and advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 7 May 2004, Petitioner received NJP for two specifications of UA and willfully disobeying a lawful order.

e. On 2 July 2004, Petitioner was notified of administrative separation processing by reason of misconduct due to pattern of misconduct and commission of a serious offense. He waived his rights to consult with counsel, make a statement, or have his case heard by an administrative discharge board. The separation authority subsequently directed Petitioner's discharge with an OTH characterization of service, and he was so discharged on 8 July 2004. Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 1 September 1999 to 14 January 2003.

f. Petitioner contends that his disciplinary action was not in line with the severity of the alleged infractions, that there were errors in the investigation and lack of proper evidence, and that his post-discharge accomplishments merit relief. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149, personal statement, advocacy letters, employment documentation, education documentation, and medical documentation that he provided.

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

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to his separation.

Petitioner submitted excerpted medical evidence from April 2025 listing a diagnosis of Adjustment Disorder, Unspecified. He provided statements in support of his experience and evidence of character and post-service accomplishment.

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided evidence of mental health concerns that are temporally remote to his military service and appear unrelated. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with the circumstances of his separation from service.

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

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial warrants relief. Specifically, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service for his first enlistment and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's OTH characterization of service for misconduct due to pattern of misconduct. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (d). These included, but were not limited to, Petitioner's desire for a discharge upgrade, removal of derogatory material from his record, and his previously discussed contentions.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his NJPs in his second enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and found that his conduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given an opportunity to correct his conduct deficiencies but chose to continue to commit misconduct; which led to his OTH discharge. Petitioner's conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Further, the Board noted that the Petitioner did not provide evidence of his contentions of errors in process and lack of evidence. The Board further noted that Petitioner's most serious charges qualified for a punitive discharge under the Uniform Code of Military Justice and determined his disciplinary actions and characterization of service were appropriate based on the severity of his misconduct.

Finally, the Board concurred with the AO and determined that there is insufficient evidence to attribute his misconduct to PTSD or another mental health condition. As explained in the AO, Petitioner's medical evidence is temporally remote to his service and there is no evidence he was diagnosed with a mental health condition in the 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. Moreover, even if the Board assumed that Petitioner's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the

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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 relief as a matter of clemency or equity.

RECOMMENDATION

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), for the period ending 8 July 2004, correcting Block 18, "Remarks" to indicate:

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 990901 UNTIL 030114."

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.

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.

7/18/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]