



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

[REDACTED]
Docket No. 1712-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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 20 Jun 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 discharge be upgraded to Honorable, his reentry code be changed to RE-1, and his reason for separation, separation authority, and separation code be changed to reflect a Secretarial Authority discharge. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 September 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, and his 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. 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 Navy and began a period of active duty on 9 January 2002. He served without incident during his first three years of service and was awarded the Good Conduct medal on 8 January 2005.

c. On 7 April 2006, Petitioner was identified as a Body Composition failure.

d. In February 2007, Petitioner received a psychological evaluation and was diagnosed with major depression based upon a "long history" of symptoms of depression. He was subsequently referred for therapy.

e. On 5 April 2007, a message from the Naval Drug Laboratory reported Petitioner's drug screening urinalysis positive for cocaine metabolites.

f. A recommendation from Petitioner's Leading Chief Petty Officer (LCPO) identified him as a tremendous asset and assessed him as ranking highly compared to other second class petty officers. Likewise, his Officer-in-Charge recommended against separation, stating, "this is one sailor that I feel should be fought for."

g. On 13 April 2007, Petitioner received nonjudicial punishment for violation of Article 112a of the Uniform Code of Military Justice (UCMJ) due to his wrongful use of cocaine.

h. Consequently, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse and elected to waive his right to make a statement or to request a hearing before an administrative separation board.

i. The recommendation for Petitioner's discharge under Other Than Honorable (OTH) conditions was approved following a separation physical which found him fit to separate. He was so discharged on 15 June 2007.

j. Petitioner contends that he enlisted after the 9/11 terrorist attacks to pursue a career in the military. He does not remember the night he used cocaine due to being blacked out from alcohol intoxication during a "drinking bender;" however, he acknowledges the urinalysis was valid and that he made a mistake. He recognizes, in retrospect, that he failed to take control of the struggles he placed on himself and, instead, would get drunk to the point of blacking out as an easy answer or "self-prescribed" therapy. He continued this pattern and spent his initial years post-discharge drinking away his pain and disappointment in himself until he finally overcame this problem. He has since been sober for almost seven years. In the time since his discharge, he has completed his bachelor's degree in management and graduated with honors, worked in healthcare food services from 2011-2014, began running the nutrition department at [REDACTED] State Veterans Home in 2014; and had a breakdown six months later and checked into a behavioral health facility where he learned to deal with his mental health struggles and ultimately overcame his drinking issues. In support of his contentions, he provided a legal brief, his personal statement, post-service medical and behavioral health records, policy memos, performance evaluations, a culinary arts diploma, his résumé, a brain maturation article, 10 character letters, and personal photos.

k. Because Petitioner contends that a mental health condition affected the circumstances of his discharge, the Board requested enclosure (2) for consideration. The AO stated in pertinent part:

Petitioner was evaluated during military service and diagnosed with a mental health condition which he has continued to experience after military service. While his mental health condition was noted to be pre-existing to military service, it is plausible that military stressors may have exacerbated his symptoms resulting in a recurrence. It is possible that problematic alcohol use may have increased as an unsuccessful self-medication. Problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for behavior. It is difficult to attribute his substance use to self-medication given his denial of intentional use. There are also inconsistencies in his current report, in which he claims that he received no assistance for mental health concerns during military service, and his service medical record that raise doubts regarding the reliability of his recall.

The AO concluded, "There is in-service evidence of a mental health condition that may be attributed to military service in part. There is insufficient evidence that his misconduct may be attributed to a mental health condition."

l. Petitioner's rebuttal to the AO addressed the consistent nature of his diagnosis in-service and post-service as well as the purported nexus between his diagnosis and his misconduct. However, this additional information was not substantively different than that relied upon in the original clinical opinion and, therefore, the AO remained unchanged.

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) intended to be covered by this policy.

The Board noted Petitioner's drug abuse misconduct and does not condone it; additionally, the Board also concurred with the AO that there is insufficient evidence that his misconduct may be attributed to a mental health condition. The Board applied liberal consideration to Petitioner's claim that he suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. However, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which Petitioner was discharged was excused or mitigated by his mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and had the same concerns raised in the AO. 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.

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Regardless, the Board specifically noted that Petitioner served on active duty, without any documented misconduct incidents, for more than five years prior to his positive urinalysis. Further, the Board took into consideration Petitioner's favorable recommendations of retention from his immediate chain of command. Additionally, the Board noted Petitioner's considerable evidence of post-service accomplishments, his acceptance of responsibility and remorse for his misconduct, and his efforts toward recovery with respect to managing his mental health concerns. Ultimately, the Board found that the totality of favorable factors Petitioner submitted for consideration of clemency based on his post-service character outweighed the single incident of drug abuse misconduct. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and to change his narrative reason for separation, separation authority, and separation code to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record, even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Further, the Board found that Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined 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, for the ending 15 June 2007, he was discharged with a "General (Under Honorable Conditions)" characterization of service, narrative reason for separation of "Secretarial Authority," separation code of "JFF," and separation authority of "MILPERSMAN 1900-164."

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/24/2025

