



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

██████████
Docket No. 1841-25
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) 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 11 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. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 22 August 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), an 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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted in the Navy with a self-reported pre-service history of marijuana use and began a period of active duty on 10 November 1988.

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c. Petitioner had a single non-judicial punishment (NJP) during his first period of enlistment for dereliction of duty by sleeping on watch. However, after a period of continuous Honorable service, Petitioner immediately reenlisted and commenced another period of active duty on 9 August 1991.

d. On 12 March 1992, Petitioner was issued the Kuwait Liberation Medal (KLM) for his participation in Operation DESERT STORM (DS). Issuance of this award is documented in his service record via an administrative counseling remark. His record of campaign and service awards also reflects the award of the Southwest Asia Service Medal (SWASM) with second star incident to his participation in DS.

e. On 24 September 1992, a letter informed Petitioner's command that he had issued checks with insufficient funds.

f. On 9 October 1992, Petitioner received NJP for violation of the Uniform Code of Military Justice (UCMJ) under Article 112a due to wrongful use of the controlled substances cocaine and marijuana.

g. During substance abuse screening on 26 October 1992, Petitioner disclosed a significant pre-service history of polysubstance abuse; to include cocaine, amphetamines, and LSD, in addition to the single disclosure he made at the time of his enlistment regarding his use of marijuana.

h. Consequently, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse and requested a hearing before an administrative discharge board (ADB). The ADB convened on 3 December 1992 and found Petitioner committed drug abuse and recommended his separation with a characterization of discharge under Other Than Honorable (OTH) conditions.

i. Ultimately, Petitioner was discharged under OTH conditions for the reason of misconduct due to drug abuse on 1 April 1993. At the time his Certificate of Release or Discharge from Active Duty (DD Form 214) was issued, it listed block 13 awards of: Navy Unit Commendation, National Defense Service Medal with 2 Bronze Stars, and Sea Service Deployment Ribbon. However, his first period of continuous Honorable service was omitted from his block 18 remarks. Additionally, Petitioner's supporting documents specifically evidence of two certificates of commendation issued by his commanding officer which are not documented in his DD Form 214.

j. Petitioner contends that he enlisted to escape a brutal and traumatic home environment. He served with honor through his first enlistment and during multiple deployments. While deployed in support of DS, he and his ship were exposed to hazardous conditions, including smoke from burning oil fields, with limited access to clean water. He experienced those and other environmental stressors which, combined with the unresolved trauma from his childhood, caused his to experience symptoms of anxiety and depression. He struggled with his mental health after returning from deployment and reverted to pre-service coping mechanisms, which included marijuana use. However, he immediately expressed remorse and began attending

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narcotics anonymous. He believes that his mental health concerns warrant liberal consideration and that his post-service character and accomplishments reflect rehabilitation warranting consideration of clemency. For the purpose of clemency and equity consideration, in addition to his counsel's brief and his personal statement, he included evidence of awards received during his military service, his associate's degree diploma, a Red Cross training certificate, and a character letter.

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

Petitioner was evaluated during his enlistment and diagnosed with an adjustment disorder and substance use disorders. Substance use is incompatible with military readiness and discipline and does not remove responsibility for behavior. An Adjustment Disorder indicates a reaction to a stressor that typically resolves once the stressor, such as military service, is removed. There is no evidence that he exhibited any psychological symptoms or behavioral changes indicative of another diagnosable mental health condition. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish a nexus with his misconduct, particularly given his pre-service substance use. There are inconsistencies in his record that raise doubt regarding his candor. There is insufficient evidence to attribute his misconduct to a mental health condition other than substance use disorder. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "There is in-service evidence of a mental health diagnosis (Adjustment Disorder) that may be attributed to military service. There is insufficient evidence to attribute his misconduct to mental health concerns other than substance use disorder."

l. In response to the AO, Petitioner provided additional evidence in support of his application. After reviewing Petitioner's rebuttal evidence, 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. Specifically, as pointed out above, the Board determined Petitioner's DD Form 214 does not annotate his period of continuous Honorable service or all his awards and requires correction.

Notwithstanding the recommended corrective action below, the Board determined no further relief was warranted. 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 (e). These included, but were not limited to, Petitioner's desire for a discharge upgrade and his previously discussed contentions.

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After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP during his second enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it involved a drug offense. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Additionally, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor.

Further, the Board concurred with the AO that, notwithstanding Petitioner's in-service diagnosis of AD, there is insufficient evidence to attribute his misconduct to a mental health condition other than his substance use disorder. As explained in the AO, Petitioner provided no medical evidence in support of his claim and the Board agreed there was insufficient evidence to provide a nexus between his misconduct and a mental health condition. 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.

Finally, the Board noted that Petitioner had a significant history of pre-service drug abuse of multiple, highly addictive narcotics which he fraudulently failed to disclose at the time of his initial enlistment. The Board found this omission to be intentional and reflected negatively upon Petitioner's credibility with respect to his candor.

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. 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 Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action.

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RECOMMENDATION:

That Petitioner be issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 1 April 1993, to reflect the following comment added to the Block 18 Remarks section:

“CONTINUOUS HONORABLE SERVICE FROM 10NOV1988 TO 8AUG1991.”

That Petitioner receive a thorough review of his entitlement to awards, with specific attention to the KLM, SWASM, and commendation letters. Any missing awards may be incorporated under block 13 of the DD Form 215.

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

9/10/2025

