



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

■
Docket No. 2233-25

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 5 Jun 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting upgrade of his characterization of service to either Honorable or Under Honorable Conditions (General) on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through(3) apply.

2. The Board, consisting of ■, ■, and ■, reviewed Petitioner's allegations of error and injustice on 7 July 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 also considered enclosure (4), the advisory opinion (AO) furnished by qualified mental health provider. 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.

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

[REDACTED], USN, XXX-XX-[REDACTED]

c. Petitioner enlisted in the Navy after disclosing pre-service marijuana use and a pre-service offense of driving under the influence (DUI) and began a period of active service on 15 December 1986. On 5 August 1988, Petitioner completed Navy Alcohol and Drug Safety Action Program (NADSAP). On 28 January 1990, Petitioner was treated for knife wounds incurred during an alcohol related incident (ARI). On 16 July 1990, Petitioner was treated for a head injury from a thrown bottle during an ARI. Petitioner re-enlisted on 1 November 1990.

d. On 17 January 1991, Petitioner was cited by civilian authorities for disturbing the peace. On 3 July 1991, Petitioner transferred to the [REDACTED]. On 30 August 1991, Petitioner completed a five-day NADSAP treatment. On 28 August 1992, Base authorities responded to a complaint from Petitioner's wife and filed an alcohol influence report regarding a domestic disturbance at Petitioner's residence. Petitioner was taken to base and spent the weekend in the barracks. On 28 November 1992, Base authorities were called to Petitioner's residence for domestic disturbance and assault with injuries to both Petitioner and Petitioner's wife. On 10 December 1992, Petitioner was screened by the command Drug and Alcohol Abuse Program Advisor (DAPA) who referred him to Counseling and Assistance Center (CAAC) Level II screening. The CAAC evaluation recommended administrative separation and VA treatment, or Level III in-patient treatment if retained. On 17 December 1992, Petitioner was evaluated by a Medical Officer who determined he was not alcohol dependent and recommended Level II treatment and a psychological evaluation.

e. On 5 January 1993, Petitioner was issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct; specifically, a domestic disturbance with a Blood Alcohol Content (BAC) of .136. He was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 14 January 1993, Petitioner received a psychological evaluation where he denied a problem with alcohol, was found "evasive and inconsistent in reporting current/past alcohol use," and recommended for Level II treatment. Petitioner completed Level II alcohol treatment on 19 March 1993. On 24 March 1993, Petitioner's request for transfer from the [REDACTED] was denied due to manning shortages.

f. On 28 November 1993, Base authorities reported an incident involving Petitioner's conduct while at a club. Petitioner was extremely intoxicated, the manager of the club refused him service, and asked him to leave the club. Petitioner refused and the manager requested assistance from two Patrolmen and Petitioner's Chief who were in the club executing their security rounds. Petitioner became verbally abusive and threatening toward the Patrolmen and the Chief. The incident report noted that Petitioner's BAC was .253.

g. On 7 December 1993, the DAPA noted that Petitioner met the criteria for Alcohol Rehabilitation failure and recommended additional treatment, regardless of whether or not he was retained in service. On 13 December 1993, Petitioner received non-judicial punishment (NJP) for two specifications of insubordinate conduct toward a Chief Petty Officer (CPO), communicating a threat toward a CPO, provoking speeches or gestures toward two Patrolmen, and drunk and disorderly conduct of a nature to bring discredit upon the armed forces.

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

[REDACTED], USN, XXX-XX-[REDACTED]

h. On 28 January 1994, Petitioner was notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to commission of a serious offense and alcohol rehabilitation failure. Petitioner consulted with counsel, submitted a statement, and elected his right to have his case heard by an administrative discharge board (ADB). On 3 March 1994, the ADB found that he had committed misconduct and recommended that he be discharged under OTH conditions by reason of misconduct. On 11 March 1994, Petitioner declined in-patient alcohol abuse treatment. On 25 May 1994, the separation authority concurred with the ADB and directed an OTH discharge by reason of misconduct. Petitioner was so discharged on 14 June 1994. Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 15 December 1986 to 31 October 1990.

i. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request for an upgrade, on 26 June 1995, based on their determination that Petitioner's discharge was proper as issued.

j. Petitioner twice previously applied to this Board for an upgrade to his characterization of service. In his first application, his contentions were conflict with his Chief, asbestos exposure, and his in-service and post-service accomplishments. The Board denied his initial request on 26 April 2016. On 24 April 2018, Petitioner's second request was administratively closed due to lack of new evidence.

k. In Petitioner's current application, he contends he suffered a traumatic brain injury (TBI) that was not considered during discharge proceedings because no one knew, that he was not offered treatment for depression or alcohol prior to his transfer to [REDACTED], and that he requested transfer from his department before the incident with his Chief. Petitioner also contends post-discharge accomplishments. For purposes of clemency and equity consideration, Petitioner submitted a decision letter from the Department of Veterans Affairs (VA).

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

In June 1994, he was discharged under other than honorable conditions. He denied mental health symptoms and head injury during his separation physical.

Petitioner contends he incurred Depression and TBI during military service. He has been granted service connection for Unspecified Anxiety Disorder with TBI. He provided a statement regarding post-service accomplishment.

Petitioner was diagnosed with an Alcohol Use Disorder during military service. There is no evidence that he was diagnosed with another mental health condition in military service or that he was diagnosed with residual symptoms of head injury consistent with TBI during military service. During service, he repeatedly denied head injury during physical examinations. Temporally remote to his military service, the VA has granted service connection for TBI and a mental health condition. Unfortunately, available records are not sufficiently detailed to provide

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

[REDACTED], USN, XXX-XX-[REDACTED]

a nexus with his misconduct, particularly given pre-service problematic alcohol use that appears to have continued in service.

The AO concluded, "There is post-service evidence from the VA of a diagnosis of TBI and a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to TBI or a mental health condition other than Alcohol Use Disorder."

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 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 and separation for misconduct due to commission of a serious offense. 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).

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 NJP and ARIs in his second enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's repeated misconduct, the likely negative effect his conduct had on the good order and discipline of his command, and the service-discrediting nature of Petitioner's offenses. The Board further noted that the Petitioner was given multiple chances to address his conduct issues but he continued to commit misconduct; which ultimately led to his OTH discharge. The Board also concurred with the AO and determined that, while there is post-service evidence from the VA of a diagnosis of TBI and a mental health condition that may be attributed to military service, there is insufficient evidence that his misconduct may be attributed to TBI or a mental health condition other than Alcohol Use Disorder. As explained in the AO, Petitioner repeatedly denied any head injuries during his active duty service and his post-service VA diagnoses are temporally remote to his 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 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.

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

[REDACTED], USN, XXX-XX-[REDACTED]

RECOMMENDATION

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

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 861215 UNTIL 901031."

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.

7/23/2025

