



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

■  
Docket No. 2238-25

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 24 Jan 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his characterization of service be changed to Honorable or General (Under Honorable Conditions) and his reason for separation be changed to "medical" 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 11 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, 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, and the 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.

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c. Petitioner enlisted in the Navy after disclosing pre-service marijuana use and began a period of active service on 2 July 1998.

d. On 29 May 1999, Petitioner commenced a period of unauthorized absence (UA that ended in his surrender on 9 June 1999. On 11 June 1999, Petitioner commenced another period of UA that ended in his surrender on 14 June 1999. On 17 June 1999, Petitioner commenced another period of UA, during which his command received notification that Petitioner's urine sample tested positive for tetrahydrocannabinol (THC), that ended in his surrender on 10 July 1999. On 14 July 1999, Petitioner was examined by a medical officer who indicated he was dependent on cannabis but did not require hospitalization or detoxification. The medical officer recommended drug rehabilitation treatment and whatever administrative or disciplinary action the command determined appropriate.

e. On 15 July 1999, Petitioner received non-judicial punishment (NJP) for wrongful use of marijuana and the three periods of UA. Subsequently, Petitioner was notified of administrative separation processing by reason of misconduct due to drug abuse. Petitioner waived his rights to consult counsel, make a statement or request an administrative discharge board. In the meantime, Petitioner received another NJP for wrongful use of marijuana. Petitioner's commanding officer recommended an under Other Than Honorable (OTH) conditions discharge and the separation authority approved the recommendation. On 10 September 1999, Petitioner was so discharged.

f. Petitioner previously applied to this Board for an upgrade to his characterization of service where he contended that he wanted to join the Army and his post-discharge conduct warranted an upgrade. The Board denied his request on 20 June 2006. Petitioner also applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request for an upgrade, on 10 August 2006, based on their determination that his discharge was proper as issued.

g. Petitioner now contends he incurred PTSD and traumatic brain injury (TBI) during service, self-medicated after he was injured during the date-line ceremony on his ship and did not receive proper treatment, and desires Department of Veterans Affairs (VA) benefits. For the purpose of clemency and equity consideration, Petitioner provided evidence of post-service accomplishments, including volunteer work, education, and drug rehabilitation. He provided close to four hundred pages of medical documentation, five professional certificates, his bachelor's degree in health care, a professional letter of recommendation, and three advocacy letters in support of his application.

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

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) during military service, which may have contributed to the circumstances of his separation.

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Petitioner presented evidence of a diagnosis of anxiety from June 2001. March 2025 medical records note his anxiety “is currently well-managed without medication. He attributes his improvement to a peaceful environment and personal coping strategies such as reading and praying.”

Petitioner submitted March 2012 and March 2013 civilian psychiatric evaluations for disability due to depression and other medical concerns. He “said he has been feeling depressed for the past 10 years. He said it originally began because it is related to his childhood where there were a lot of family problems...said he grew up in an abusive home...he has shoulder pain which is a contributing factor.”

c. Petitioner provided evidence of medical treatment for shoulder and other injuries from 2011. Records from May 2019 noted additional medical treatment for his shoulder following a February 2019 motor vehicle accident.

Petitioner was evaluated during military service, and diagnosed with a substance use disorder. There is no evidence that he was diagnosed with another mental health condition in military service. There is no in-service medical evidence of treatment for head injury or TBI and the Petitioner has provided no medical evidence of TBI. Temporally remote to his military service, he has received treatment for a mental health condition. However, there are some inconsistencies between his service record and his current report, which raise doubt regarding the reliability of his recall. For example, records of his mental health treatment state that his mental health concerns onset after the conclusion of his military service and attribute his mental health symptoms to childhood experiences. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct, particularly given pre-service marijuana use that appears to have continued in service. Additionally, the Petitioner contends that his UA was to seek treatment for his purported shoulder injury, rather than avoidance due to mental health symptoms.

The AO concluded, “There is some post-service evidence from the Petitioner of a diagnosis of mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than substance use disorder.”

In response to the AO, the Petitioner provided supporting documentation that supplied additional clarification of the circumstances of his case. After reviewing the 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 relief.

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The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse. 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 (c) and (d), concurred with the AO, and determined that, while there is some post-service evidence from the Petitioner of a diagnosis of mental health concerns that may be attributed to military service, there is insufficient evidence to attribute his misconduct to a mental health condition, other than substance use disorder .

The Board also reviewed Petitioner's application under the guidance provided in reference (b). The Board noted Petitioner's disciplinary infractions and does not condone his misconduct. However, after reviewing the record holistically, given the totality of the circumstances and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "General (Under Honorable Conditions)." In making this determination, the Board considered the substantial evidence Petitioner submitted that documented his post-discharge good character, volunteer work, personal development, and professional accomplishment.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. 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, based on Petitioner's record of misconduct, the Board determined his narrative reason for separation, separation code, and reentry code remain appropriate. Finally, regarding Petitioner's request for a "medical discharge," the Board found insufficient evidence to support a finding he was unfit for continued naval service as a result of a qualifying disability condition. Regardless, the Board also found that Petitioner was ineligible for disability processing due to his misconduct based administrative separation processing that resulted in an OTH discharge. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

#### RECOMMENDATION

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending on 10 September 1999, indicating he was discharged with a "General (Under Honorable Conditions)" characterization of service.

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.

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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.

8/27/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]