



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

[REDACTED]
Docket No. 2241-25
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) 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 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion of 27 May 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting an upgrade of his discharge characterization of service and change of narrative reason for separation to Secretarial Authority. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], 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 (e). Additionally, the Board considered enclosure (4), 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.

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 and began a period of active service on 21 December 1994. After a period of continuous Honorable service, Petitioner immediately reenlisted and commenced another period of active duty on 9 May 1997.

d. On 15 July 1998, Petitioner commenced a period of unauthorized absence (UA) from the [REDACTED], during which he missed ship's movement. The UA was ended by Petitioner's surrender on the same day.

e. On 20 July 1998, Petitioner commenced a second period of UA that ended with his surrender on 6 August 1998.

f. In September 1998, Petitioner was issued an administrative remarks (Page 13) counseling concerning his diagnosis of Personality Disorder. Recommendations were made for corrective action related to his behavior.

g. On 8 October 1998, Petitioner received non-judicial punishment (NJP) for UA between 20 July and 6 August 1998 and two incidents of missing ship's movement. His punishment, as it related to reduction in rank, was suspended.

h. On 20 October 1998, Petitioner was issued a Page 13 counseling concerning deficiencies in his performance and/or conduct related to his prior UA's and missing ship's movement. He was advised that any further deficiencies in performance and/or conduct may result in disciplinary action and processing for administrative discharge.

i. On 9 January 1999, Petitioner received NJP for disrespect toward a Navy Captain and use of disrespectful language toward a Petty Officer Second Class. His previously suspended punishment of reduction in rank was vacated due to this continued misconduct. He was additionally issued an adverse performance evaluation for the period of 16 March 1998 through 9 January 1999. He was assigned scores of 1.0 in the categories of military bearing/character, teamwork, and leadership.

j. On 13 March 1999, Petitioner requested mast with his Commanding Officer (CO) regarding his allegation that his qualifications had been negatively misrepresented. He additionally self-identified as being incompatible with the Navy and requested separation.

k. On 2 August 1999, Petitioner was convicted at Summary Court-Martial (SCM) of two instances of violating Article 92 of the Uniform Code of Military Justice (UCMJ) for dereliction of duty between January 1998 and May 1999, a violation of a general regulation, and a violation of Article 121 of the UCMJ for larceny of a pressure washer and chisel. He was sentenced to restriction for 30 days and forfeiture of \$100 pay per month for a period of one month.

l. On 10 August 1999, Petitioner was notified of administrative separation processing by reason of Misconduct due to Pattern of Misconduct and Commission of a Serious Offense.

m. On 11 August 1999, Petitioner submitted a conditional waiver request for a General discharge in lieu of further administrative processing based on five recommendations in his medical record that he be separation for Personality Disorder.

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n. On 26 August 1999, his CO denied his request, stating only one such recommendation existed in Petitioner's record and documenting Petitioner's record of misconduct.

o. On 30 August 1999, Petitioner elected the right to appear before an Administrative Discharge Board, however, he later waived this right.

p. On 26 October 1999, Petitioner's CO recommended his administrative separation with an Other Than Honorable (OTH) characterization of service. Ultimately, the recommendation was approved by the separation authority and Petitioner was so discharged on 19 November 1999. Upon his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that did not annotate his period of continuous Honorable service from 21 December 1994 to 8 May 1997.

q. Post-discharge, Petitioner applied to the Navy Discharge Review Board (NDRB) for relief, contending that the conditions leading to his NJP and SCM were negatively influenced by his division members, and that their actions against him were not within the spirit of the Navy's conduct charter. He additionally contended he was counseled and directed improperly, under duress, to elect options in the separation process resulting in the least favorable discharge. The NDRB denied relief, on 26 April 2012, after finding Petitioner's discharge was proper as issued with no change warranted.

r. Petitioner contends in his application that, as a result of his unique personality style, he conflicted with many people in his leadership while in service. He ultimately became the victim of maltreatment, bullying, and a hostile workplace environment. He dealt with mental health issues that, 25 years ago, the military may not have recognized or would deal with differently today. He was discharged with an OTH without proper assistance of counsel for minor misconduct. His underlying mental health conditions of severe depression, personality disorder with borderline antisocial features, combined with physical pain from his undiagnosed spinal issues, were significant contributing factors in his military misconduct, warranting clemency and relief in accordance with the Kurta Memo. His post-service achievements provide sufficient justification for upgrading his discharge and granting him clemency is in line with the Wilke Memo. In support of his application, he provided a legal brief with exhibits; which included his personal letter and two advocacy letters.

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

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service. He has provided no additional medical evidence. His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military

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service. 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 insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition, other than personality disorder."

t. In response to the AO, the Petitioner provided supporting documentation that supplied additional clarification of the circumstances of his case. Of note, the Petitioner pointed out that the AO attempted to explain away and/or oversimplify issues raised, improperly attempted to impose a requirement that Petitioner's mental health condition be a new condition instead of one Petitioner entered service with, and that Petitioner was "tagged" for Personality Disorder, although he was seen by medical for the issue only once.

u. Following review of Petitioner's rebuttal, it was determined no new medical evidence was provided and the AO remained unchanged.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, as discussed above, the Board determined Petitioner's DD Form 214 does not reflect his period of continuous Honorable service for the period of 21 December 1994 through 8 May 1997 and requires correction.

Regarding Petitioner's request for a discharge upgrade and change of narrative reason for separation, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, his desire for a discharge upgrade and change to his reason for separation, along with his previously discussed contentions. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149 and the evidence he provided in support of it.

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 two NJPs and SCM, 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 multiple opportunities 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.

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Further, the Board concurred with the AO that is insufficient evidence to attribute his misconduct to a mental health condition, other than Personality Disorder. As explained in the AO, Petitioner provided no medical evidence to support his contentions and his in-service misconduct appears consistent with his diagnosed Personality Disorder. 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 a mental health condition, the Board unequivocally concluded that the severity of Petitioner's serious misconduct more than outweighed the potential mitigation offered by any mental health condition.

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 a discharge upgrade or granting an upgrade 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 above, the Board recommends the following corrective action.

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 19 November 1999, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 21DEC1994 TO 8MAY1997."

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.

8/19/2025

