



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

██████████
Docket No. 3534-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████, USN,
XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) USD Memo, "Clarifying Guidance to Boards for Correction of Military/Naval Records Considering Cases Involving Both Liberal Consideration Discharge Relief Requests and Fitness Determinations," of 4 April 2024
(c) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017
(d) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018
(e) Official Military Personnel File

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion, dated 29 July 2025

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 Other Than Honorable (OTH) discharge be changed to a medical retirement.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 17 September 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. 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 all references, to include references (b) through (d), namely, the 4 April 2024 guidance from the Under Secretary of Defense for Personnel and Readiness regarding cases involving both liberal consideration discharge relief requests and fitness determinations (Vazirani Memo), the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo), hereinafter collectively referred to as the Clarifying Guidance. Additionally, the Board considered enclosure (2), the 29 July 2025 advisory opinion (AO) furnished by a licensed clinical psychologist. Although Petitioner was provided an opportunity to respond to the AO, he chose not to do so.

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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 reference (c).

b. According to the reference (e), Petitioner enlisted in the Navy and commenced active duty on 22 April 1987. On 20 June 1988, Petitioner received non-judicial punishment (NJP) for unauthorized absence and disobeying a lawful order. Consequently, Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith. On 22 June 1988, Petitioner's commanding officer recommended that Petitioner be discharged, as follows:

(Petitioner) has no potential for future Naval Service . . . openly admits that he wants out at all cost . . . flaunts authority and refuses to accept responsibility . . . strongly recommend immediate other than honorable discharge.

c. On 30 June 1988, Petitioner was administratively discharged due to Misconduct – Commission of a Serious Offense and assigned an OTH characterization of service.

d. Petitioner previously filed an application with this Board in 2003 in which he sought discharge relief in the form of an upgrade of his characterization. On 8 September 2004, the Board denied his requested relief. It stated its reasoning as follows:

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and your assertion that being absent from your ship did not support being discharged from the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Accordingly, your application has been denied.

e. In his application, Petitioner requested to have his OTH characterization of service changed to a medical retirement. In support of his request, Petitioner asserted that he was suffering an undiagnosed mental illness while he was in service. Specifically, he states that he was diagnosed with Bipolar Disorder I in 2011 and that he was suffering an episode when he was discharged. In further support of his request, Petitioner provided medical records.

f. In order to assist it in reviewing Petitioner's request, the Board obtained enclosure (2) from a licensed clinical psychologist. The AO was considered unfavorable to Petitioner's request and he was provided a copy of it for review. The AO stated in pertinent part:

Petitioner submitted evidence of a diagnosis of Bipolar I Disorder, from January 2013. He submitted evidence of treatment of mental health concerns from August 2011 to February 2020.

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There is no evidence that he was diagnosed with a mental health condition in military service. He has submitted medical evidence of a mental health condition that is temporally remote to his military service and appears unrelated. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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.

g. The AO concluded, "it is my considered clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief.

In keeping with the letter and spirit of the Clarifying Guidance, the Board gave liberal and special consideration to Petitioner's record of service, and his contentions concerning his post-service mental health diagnosis. In analyzing Petitioner's request, the Board applied the reference (b) Vazirani Memo, which explains that, in cases such as Petitioner's, where he seeks a correction to his records to reflect eligibility for a medical retirement or separation, this Board bifurcates its review. First, the Board applies liberal consideration to Petitioner's assertion that his post-service diagnosis of a mental health condition potentially contributed to the circumstances resulting in his discharge or dismissal to determine whether any discharge relief, such as an upgrade or change to the narrative reason for discharge, is appropriate. After making that determination, the Board then must separately assess his claim of medical unfitness for continued service due to the mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

Thus, the Board began its analysis by applying liberal consideration to Petitioner's assertion that his post-service diagnosis of a mental health condition potentially contributed to the circumstances resulting in his discharge or dismissal to determine whether any discharge relief, such as an upgrade or change to the narrative reason for discharge, is appropriate. In its review, the Board determined that no discharge relief was warranted based on the application of liberal consideration. In reaching this portion of its decision, the Board relied upon the findings of the AO that Petitioner's mental health condition was diagnosed temporally distant from his time in service such that a nexus to his misconduct could not be found. That is, he was discharged in 1988 and the evidence that he provided reflected his mental health treatment began in 2011. Further, the AO explained that the available medical records were not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. Thus, the Board found that the temporal remoteness and lack of nexus to his misconduct while he was in service rendered his evidence insufficient to overcome the presumption of regularity that his discharge was appropriately administered.

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Notwithstanding the foregoing, and in consideration of the framework set forth in the reference (d), the Board determined that Petitioner was deserving of clemency in the form of upgrading his discharge characterization from OTH to General (Under Honorable Conditions). In reaching this decision, the Board considered that the misconduct for which Petitioner's discharge was based appeared to be relatively minor and of a nature that did not support the issuance of an OTH characterization of service. The Board reiterated that it recommended this relief based on principles of clemency and did not base its decision on any finding that his NJP or separation from service was defective in some manner or due to Petitioner's post-service mental health condition. Accordingly, the Board determined that clemency as described above is appropriate.

Next, the Board turned to separately assess Petitioner's claim of medical unfitness for continued service due to the mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration. In so doing, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System (DES) with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. In addition, the Board observed that it applies a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

In reviewing the Petitioner's record, the Board concluded the preponderance of the evidence does not support a finding that he met any of the criteria for unfitness at the time of her discharge. At the outset, the Board concurred with the AO's opinion, which, upon review of available medical records, found "insufficient evidence of a mental health condition that may be attributed to military service." Further, a review of Petitioner's service record does not contain any indication that he was unable to perform his duties due to a condition; nor did Petitioner provide any such supporting documentation. In fact, a review of Petitioner's records reflects that the proximate cause of his discharge was misconduct due to his misconduct. Thus, in light of the foregoing, including the application of the Clarifying Guidance, the Board denied the Petitioner's request for a change to his record to reflect that he was discharged due to a medical disability.

RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner shall be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 22 April 1987, indicating he was discharged with an "General (Under Honorable Conditions)" characterization of service.

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further changes be made to Petitioner's naval record.

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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.

11/17/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]