



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE RD  
ARLINGTON, VA 22204

██████████  
Docket No. 3932-25  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████ USN,  
██████████

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 22 Sep 25  
(3) Rebuttal to AO dtd 19 Sep 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 to Honorable. Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 9 January 2026 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 the advisory opinion (AO) furnished by qualified mental health provider and your 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's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner enlisted in the Navy and began a period of active duty on 20 May 1969. After a period of continuous Honorable service, he immediately reenlisted on 20 July 1971.

c. Petitioner was awarded the Good Conduct medal on 19 May 1973.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USN,  
[REDACTED]

d. On 11 June 1974, Petitioner absented himself without authority over leave and remained absent until 8 August 1974.

e. A communication from the Federal Bureau of Investigation, dated 30 August 1974, reported that Petitioner had been charged with possession of marijuana, possession of amphetamines, possession of paraphernalia, and being in a place where drugs were being smoked or used.

f. On 17 December 1974, Petitioner was tried by Special Court-Martial (SPCM) and convicted of a single charge and specification for violating Article 86, Uniform Code of Military Justice (UCMJ), due to his unauthorized absence. He was sentenced to three months confinement without hard labor.

g. On 18 April 1975, Petitioner was subject to nonjudicial punishment (NJP) for two specifications of violating Article 134, UCMJ, due to his possession of marijuana and of a smoking apparatus.

h. Petitioner applied for the drug exemption program; however, on 12 August 1975, his request was denied, noting that he was considered psychologically dependent on controlled substances, to include marijuana, amphetamines, and heroin.

i. On 11 November 1975, Petitioner began residential substance rehabilitation treatment. Unfortunately, approximately one month into his rehabilitation program, a treatment evaluation board documented evidence of continued drug use and noted that he did not appear to desire to terminate use. Additionally, his self-reported use included marijuana, hashish, barbiturates, amphetamines, LSD, mescaline, PCP, heroin, codeine, MDA, and cocaine.

j. Consequently, Petitioner was notified of processing for administrative separation by reason of unfitness due to drug abuse. Petitioner then submitted a conditional waiver of his rights in agreement for a discharge under honorable conditions (GEN).

k. Petitioner's chain of command forwarded a favorable recommendation on his conditional request, which was approved by Commander, Naval Military Personnel Command on 6 January 1975. He was so discharged with a GEN on 13 January 1976.

l. Petitioner contends that his discharge should be upgraded on the basis of liberal consideration of mental health issues which he experienced during his military service. He believes the ongoing nature of his lasting mental health problems, as evidenced by his Department of Veterans Affairs (VA) Disability Benefit Questionnaire (DBQ) outweighs the severity of the misconduct which resulted in his discharge. He also notes clemency factors, to include the overall quality of his service his exemplary performance throughout most of his career and, his post-discharge efforts toward rehabilitation. He submits that he has turned his life around and has given back to his community in the many years since his discharge, for which he submitted several character letters in support.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
[REDACTED]

m. Because Petitioner contends that a mental health condition affected the circumstances of the misconduct which resulted in his discharge, the Board requested the AO at enclosure (2) for consideration. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment, including during an extended hospitalization. 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 evaluations performed by the mental health clinicians. Temporally remote to his military service, he has received service connection for another mental health condition. However, there are inconsistencies in his record, particularly with regard to the timeline of his substance use, that make it difficult to attribute his misconduct to a mental health condition. The inconsistencies also raise doubt regarding his candor or the reliability of his recall with passage of time. 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 diagnosis of PTSD that may be attributed to military service. There is post-service evidence from the VA of mental health condition that may be attributed to military service. There is insufficient evidence that his in-service misconduct may be attributed to PTSD or another mental health condition, other than personality disorder or substance use disorder."

In response to the AO, Petitioner submitted additional medical evidence in support of his application. After consideration of the rebuttal evidence, the AO's conclusion was revised as follows:

The Petitioner has presented post-service civilian medical evidence of a diagnosis of PTSD that may be attributed to military service. However, it is difficult to attribute his misconduct to PTSD, particularly given his substance use history and inconsistencies in his report of his substance use in his record.

#### CONCLUSION:

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

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. While the Board carefully considered Petitioner's mitigating contentions, it observed that Petitioner did not dispute committing misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that Petitioner committed the misconduct that formed the basis of his administrative separation and was properly separated with a GEN characterization of service.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
[REDACTED]

The Board applied liberal consideration to Petitioner claim that he suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and Petitioner's post-discharge diagnosis. However, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which Petitioner was discharged was excused or mitigated by his mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. 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.

In addition to applying liberal consideration to Petitioner's claimed mental health condition and its potential effect upon his conduct in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, the totality of Petitioner's service, to include service highlights, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, his post-service record of accomplishments, his service to his community, the character references he provided for review, his post-discharge efforts at rehabilitation, his mental health issues, and the passage of time since his discharge.

The Board found that the mitigating factors were sufficient to justify partial equitable relief only. Specifically, the Board concluded that the favorable factors Petitioner submitted for consideration of clemency sufficiently outweighed his misconduct to warrant a change in his narrative reason for separation. Therefore, the Board determined it was in the interests of justice, purely as a matter of clemency, to change Petitioner's reason for separation, separation code, and separation authority to reflect a "Secretarial Authority" discharge.

Notwithstanding the recommended corrective action below, with respect to Petitioner's characterization of service, the Board concluded Petitioner was fortunate to receive a GEN characterization of service and determined his assigned characterization of service remains appropriate. The Board determined Petitioner already received significant clemency, based on the length and quality of his service prior to his drug abuse misconduct, when his request for a condition waiver was approved and he was granted a discharge under honorable conditions. Therefore, the Board did not find an upgrade of Petitioner's discharge to Honorable to be warranted in the interests of justice. Further, based on his record of misconduct and unsuitability for further military service, the Board determined Petitioner's assigned reentry code also remains appropriate.

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USN,  
[REDACTED]

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending 13 January 1976, he was discharged under the authority of MILPERSMAN 3850220, with a narrative reason of "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," and separation code of "JFF."

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.

1/28/2026

