



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

[REDACTED]
Docket No. 4278-25
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, [REDACTED]

Ref: (a) Title 10 U.S.C. §1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USECDEF Memo of 25 Aug 2017 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)
(3) Advisory opinion of 6 August 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 an upgrade of his characterization of service. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 19 September 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 included references (b) through (e). Additionally, the Board considered enclosure (3), an Advisory Opinion (AO) furnished by a qualified mental health provider. Although Petitioner was provided an opportunity to comment on the AO, 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 the enclosure was not filed in a timely manner, the statute of limitation was waived in accordance with reference (d).

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c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 16 November 1998. After a period of continuous Honorable service, he immediately reenlisted on 2 October 2002.

d. On 3 July 2003, Petitioner received non-judicial punishment (NJP) for misbehavior of a sentinel. He received his second NJP, on 7 April 2004, for wrongful use of a controlled substance. On 9 Jul 2004, Petitioner received his third NJP for wrongful use of a controlled substance.

e. Unfortunately, most documents pertinent to his administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on 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. The separation authority approved Petitioner's discharge for drug abuse with an "Other Than Honorable" (OTH) characterization of service, reentry code of "RE-4," and separation code of "HKK;" which corresponds to misconduct – drug abuse, admin discharge board required but waived. Upon his discharge, he was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that documented the separation authority's decisions but did not annotate his period of continuous Honorable service from 16 November 1998 to 01 October 2002.

f. Petitioner contends that since his discharge, he has been diagnosed with service connected Post-Traumatic Stress Disorder (PTSD); which was not fully understood or properly addressed during his service and significantly impacted his behavior and judgement. He further contends that the misconduct that led to his discharge was a direct result of symptoms of the PTSD that he was experiencing as a result of his military service.

g. In light of the Petitioner's assertion of Mental Health Condition, the Board requested enclosure (3). The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Temporally remote to his military service, the VA has granted service connection for PTSD. Although it is possible that substance use may be considered a behavioral indicator of a mental health condition, there is insufficient information regarding his post-service PTSD diagnosis to make this conclusion. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued in service. Additional records (e.g., in-service or 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 post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD."

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CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's record warrants partial relief. Specifically, as discussed above, the Board determined Petitioner's DD Form 214 fails to document Petitioner's continuous Honorable service from 16 November 1998 to 01 October 2002 and requires correction.

Notwithstanding the below recommended corrective action, the Board concluded that insufficient evidence exists to support Petitioner's request for an upgrade in characterization of service. 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, Petitioner's desire for a discharge upgrade and his previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board considered the seriousness of his misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also found that Petitioner's 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 enough to negatively affect the good order and discipline of his command. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that Petitioner's overall service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

Further, the Board applied liberal consideration to Petitioner's 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 insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact Petitioner's medical evidence is temporally remote to his service. Additionally, 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. 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 your 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 Petitioner's serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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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 provided 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 him an upgrade as a matter of clemency or equity. Ultimately, the Board concluded the mitigating evidence the Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

RECOMMENDATION:

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 23 July 2004, to reflect the following comment added to the Block 18 Remarks section:

“CONTINUOUS HONORABLE ACTIVE SERVICE FROM 19981116 UNTIL 20021001.”

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

9/29/2025

