



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█
Docket No. 4390-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █

█ USMC

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) Petitioner's Official Military Personnel File

Encl: (1) DD Form 149 w/attachments

(2) Clinical Psychologist, Board for Correction of Naval Records ltr Docket No. 4390-25 of 11 December 2025

(3) Petitioner, undated letter received by BCNR 22 January 2026

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his bad conduct discharge (BCD) upgraded to honorable, and to have his separation authority, narrative reason for separation, and separation code to reflect honorable service. He also seeks to have his discharge changed to medical retirement.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 28 January 2026 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 the enclosures, relevant portions of naval records, and applicable statutes, regulations and policies, 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

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referred to as the Clarifying Guidance. The Board also considered the enclosure (2), an advisory opinion (AO) prepared by a Licensed Clinical Psychologist, 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation 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 in the interests of justice.

b. According to reference (e), Petitioner enlisted in the Marine Corps and commenced active duty on 25 October 1994. From August 1996 to April 1997, Petitioner participated in a special purpose missions. From February to May 2003, Petitioner deployed in support of [REDACTED], for which he received the Navy and Marine Corps Commendation Medal with combat distinguishing device and the Combat Action Ribbon. In April 1999, he was authorized to wear the Navy/Marine Corps Parachutist Insignia.

c. On 25 February 2005, Petitioner received nonjudicial punishment (NJP) for driving his vehicle while intoxicated and for assault on his wife by tearing her wedding ring off her finger. Petitioner received a page 11 counseling/warning after his NJP. In May 2006, Petitioner was informed that the Physical Evaluation Board (PEB) found him unfit for continued naval service, rated at 20% due to left hip pain from an in-service parachuting injury. According to enclosure (2), in July 2006, Petitioner was evaluated for anxiety after his Iraq deployment and was diagnosed with chronic Post-Traumatic Stress Disorder (PTSD) by a military psychiatrist.

d. On 4 August 2006, Petitioner was convicted by a special court-martial for unauthorized absence (UA) from 25 May 2006 until his apprehension on 12 June 2006, failure to go to his appointed place of duty, two instances of use of marijuana, and two instances of use of methamphetamines. He was sentenced to be discharged from the Marine Corps with a BCD, forfeitures, reduction in rank, and confinement for 44 days. Notably, the judge recommended to the convening authority to consider suspending Petitioner's BCD. On 18 August 2006, Petitioner received NJP for an unauthorized absence period of less than one day. After his NJP, Petitioner asked to be able to demand court-martial and appealed his punishment. His request for court-martial was denied and his appeal was denied. On 16 August 2007, the Navy Marine Corps Court of Criminal Appeals affirmed Petitioner's SPCM finding and sentence. Petitioner's BCD was executed and he was so discharged on 20 November 2007.

e. In his petition, Petitioner requested to have his BCD discharge upgraded to Honorable, and to change his separation authority, narrative reason for separation, and separation code to reflect Honorable service. Petitioner also requests to have his discharge changed to medical retirement. In support of his request, Petitioner argued that his service in the Marine Corps was Honorable until he developed PTSD, which was complicated by TBI. He states these conditions were not considered during his discharge and, by upgrading his discharge, the Board will be correcting an error or an injustice. In his personal statement, Petitioner argues that he was an active duty Marine for 12 years. He served as a sniper with a reconnaissance company and as a [REDACTED] instructor with the [REDACTED]. He states that

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in the years leading up to this BCD, he never had anything negative in his OMPF. He argues he suffered from PTSD and TBI from when he was in [REDACTED] which manifested in his negative behavior. He further argues that he was diagnosed with PTSD shortly before his court-martial. He explains that he is currently being treated by the Department of Veterans Affairs (VA) for obvious symptoms of TBI including slurred speech, cognitive defects, and massive head pain. He states he had five brain procedures in 2024 with a brain surgery being performed in 2025. In addition, he explains that he will have PTSD for the rest of his life. He further explained that he has started and runs a veteran non-profit. He cites the Clarifying Guidance in support of his requests.

f. In order to assist it in reviewing Petitioner's requests, it obtained the AO. According to the AO, Petitioner provided a personal statement that he incurred PTSD during his [REDACTED] [REDACTED] which contributed to self-medication of his emotional pain. The AO also described an April 2022 letter of support, which noted that the VA health care system has recently seen the veteran for neurological problems that are most likely related to a TBI sustained from Marine Corps combat training as well as possible incidents while deployed [REDACTED]. The letter stated that Petitioner was part of a "breacher" team and he sometimes experienced two to three blasts a day where he would absorb the blast with the blanket and be the first one through the door. The letter described that Petitioner described that he felt "dazed" when walking through the door after these blasts. The letter described when Petitioner was in [REDACTED] and he was sleeping under a Humvee and he woke up and banged his head. In addition, according to the letter of support, Petitioner was involved in a parachuting accident that was ruled in the line of duty, and that his diagnosis of PTSD is most specifically related to his combat experiences in [REDACTED]. Finally, it opined that his troubles during military service correlate directly with his return in [REDACTED].

g. The AO stated that it reviewed VA records noting service-connected disabilities, including PTSD with other mental health concerns, a July 2019 PTSD Disability Benefits Questionnaire which described a psychiatric hospitalization in May 2019 with subsequent residential PTSD treatment, February 2022 Neurology records noting personal history of TBI with chronic post-traumatic headache, and PTSD treatment records from June to July 2019. The AO also reviewed July 2019 records that stated Petitioner's "impact traumatic event involves moral injury, it is recommended that PTSD treatments that target this moral injury be considered." The AO further explained that she reviewed a March 2022 letter from a VA mental health provider that described Petitioner's PTSD treatment since October 2018 as well as a March 2018 letter from a VA medical provider noting a decline in the Petitioner's medical status since November 2014. After reviewing all available material, the AO explained as follows:

4. During his military service, the Petitioner was diagnosed with PTSD from Iraq combat exposure. Temporally remote to his military service, the VA has granted service connection for PTSD. Post-service VA records also indicate a history of TBI that may be attributed to military service. It is possible that his UA may be considered a behavioral indicator of avoidance consistent with PTSD. It is possible that problematic alcohol use or marijuana use may be considered a behavioral indicators of self-medication of undiagnosed symptoms of PTSD or TBI. It is difficult to consider domestic violence or methamphetamine use as a symptom of PTSD or TBI. Additional records (e.g., post-service mental health records

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describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

h. The AO concluded, "it is my considered clinical opinion that there is in-service and post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is post-service evidence from VA providers of TBI that may be attributed to military service. There is insufficient evidence that all of his misconduct may be attributed to TBI, PTSD, or another mental health condition."

i. Petitioner was provided a copy of the AO and he provided enclosure (3) response in rebuttal to the AO. In his response, Petitioner addressed the allegations that related to domestic violence while he was in service. Petitioner explained that his then-wife had been caught in adultery on numerous occasions and she was abusing the children, and that she was ultimately prosecuted and found guilty of felony child abuse and sentenced to state jail. He explained that the incident where he removed the ring from her finger was an isolated incident, and at the time he was battling undiagnosed PTSD and TBI. In addition, Petitioner stated that he disagreed with the AO's statement that methamphetamine use cannot be explained by PTSD and TBI, because that has not been his observation while in countless group therapies. Further, Petitioner addressed the AO's statement that there was "Insufficient Evidence" that all of his misconduct is attributed to his PTSD and TBI, and he states he believes his OMPF speaks for itself. Specifically, in his twelve years of service leading up to his return from [REDACTED] he states he never received a single derogatory mark. He states he had twelve years of Honorable Service, and sadly, he would have loved to have made a career serving our Country. He further explained that within three years after exiting the Marine Corps he began testing for an undiagnosed TBI that would result in years of treatment, which included five brain procedures and nine service-related surgeries in the years 2024 and 2025. Finally, he noted that he started a veteran-centered nonprofit company called [REDACTED], and that 2025 was his first year as a 501(c)(3). His nonprofit raises awareness for veterans who battle PTSD and TBI.

CONCLUSION:

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

As an initial matter, the Board did not observe any error, procedural or otherwise, in the actions of Petitioner's command in punishing him, or for processing him within the military justice system, for demonstrated violations of the Uniform Code of Military Justice.

However, in keeping with the letter and spirit of the Clarifying Guidance, the Board gave liberal consideration to Petitioner's record of service, and his contentions about any traumatic or stressful events he experienced, and their possible adverse impact on his service. In reaching its decision, the Board fully considered the Clarifying Guidance and followed reference (b). Thus, it first applied liberal consideration to Petitioner's assertion that his mental health condition potentially contributed to the circumstances resulting in his discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separated assessed his claim of medical unfitness for continued service due to his mental health condition

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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 examining whether his mental health condition actually excused or mitigated his discharge and determined that it did not need to rely on any such matters in order to grant him relief. On this point, the Board observed that, as described by Petitioner's response to the AO, his OMPF is void of any misconduct for the first approximately twelve years of service until his experience in [REDACTED]. Further, reviewing his OMPF, it is clear that Petitioner served in difficult and demanding roles while in service, and as a result was awarded a medal for valor and he earned a Combat Action Ribbon. In addition, the Board noted that the AO explained that some of Petitioner's misconduct was mitigated as a result of his mental health conditions. According to the AO, it was difficult to consider Petitioner's domestic violence event and use of methamphetamine as symptoms of his PTSD. On these points, the Board considered that Petitioner's response to the AO, in which he explained the circumstances of the domestic violence event provided a connection to his PTSD. With respect to his methamphetamine use, the Board noted the background and circumstance of his positive result for methamphetamine was unknown. Here, the Board has observed in the past that individuals may attempt to self-medicate with methamphetamine to raise their ability to focus or to enhance their moods. While not a medical opinion, the Board notes that it believed that it is not unreasonable to find that Petitioner's drug use could be mitigated by this theory based on the severity of his TBI and mental health conditions. In sum, the Board substantially concurred with the finding of the AO but found Petitioner's response in rebuttal to the AO concerning mitigation of "all of his misconduct" to be persuasive. Thus, in its application of liberal consideration, the Board found an injustice in Petitioner's naval record concerning his discharge characterization and associated matters. Further, the Board was sympathetic to Petitioner's post-service actions in starting his veterans' assistance organization. Therefore, the Board determined it was in the interests of justice, purely as a matter of clemency and equity, to upgrade Petitioner's characterization of service to Honorable and change his reason for separation to reflect a Secretarial Authority discharge.

With respect to the next step of review under the reference (b) Vazirani Memo, *viz.*, the Board's analysis of Petitioner's request for a service disability retirement, the Board considered that Petitioner had been processed for his hip condition while in service, but noted that Petitioner's misconduct processing via special court-martial took precedence over his Disability Evaluation System (DES) processing. Further, the Board noted that its clemency upgrade recommendation herein does not change the fact that while he was in service he was properly processed for this misconduct, which was significant. Finally, the Board observed that there is currently insufficient evidence of an error or injustice to overcome the presumption of regularity that Petitioner was properly separated due to misconduct vice disability. In particular, the Board observed that Petitioner provided insufficient evidence that his mental health conditions were considered unfitting while he was on active duty. The Board specifically observed that Petitioner had not provided sufficient medical documentation contemporaneous to his service to link his conditions to an error that he should have been placed in the DES for such conditions. Finally, the Board determined, when evaluating whether additional relief is warranted, the severity of Petitioner's misconduct outweighs the mitigation evidence provided.

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Finally, while the Board carefully considered all potential mitigation factors under the Wilkie Memo, based on Petitioner's record of misconduct, the Board found him unsuitable for further military service and determined his reenry code remains appropriate. The Board, again, found that the mitigation evidence provided was insufficient to outweigh the severity of his misconduct to support any further relief in Petitioner's case. Ultimately, the Board found that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

In sum, in its review and liberal consideration of all of the evidence and its careful application of the Clarifying Guidance, the Board observed an injustice in its analysis of Petitioner's discharge related relief, but it did not identify any error or injustice to support his request for a service disability retirement.

Accordingly, given the totality of the circumstances, the Board determined that Petitioner's request merits the partial relief described below.

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 20 November 2007, with changes as follows: characterization of service: Honorable, narrative reason for separation: Secretarial Authority, SPD: as appropriate.

Petitioner be issued a new Honorable discharge certificate.

That a copy of this record be placed in Petitioner's OMPF.

And no other relief.

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.

2/21/2026

[REDACTED]
Executive Director

Signed by [REDACTED]