



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

██████████
Docket No. 4489-25
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) USD Memo of 25 Aug 17 (Kurta Memo)
(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures
(2) Advisory Opinion (AO) of 12 Aug 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 with appropriate changes to permit reenlistment¹. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 20 February 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 (d). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, 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. 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.

¹ The Board noted Petitioner's statement to his congressional representative also indicated his desire for "full restoration of my Navy retirement and benefits..." However, since this contradicted his request for relief on his application, the Board determined the later in time principle applied with regard to his request for relief.

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b. Petitioner enlisted in the Navy and began a period of active duty on 24 October 1985. After completing his obligated active duty service, Petitioner was honorably discharged into the inactive reserve on 23 October 1988.

c. Petitioner reenlisted and began a second period of active duty on 31 October 1989. After a period of continuous Honorable service, he immediately reenlisted and began his final period of active duty on 13 May 2004.

d. On 26 May 2005, Petitioner drug screening urinalysis was reported as positive for marijuana metabolites. On 15 June 2005, he accepted nonjudicial punishment (NJP) for violation of Article 112a, Uniform Code of Military Justice (UCMJ), due to wrongful use of a controlled substance.

e. Consequently, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse and requested a hearing before an administrative discharge board (ADB).

f. On 25 July 2005, the ADB convened. At the hearing, Petitioner made the following unsworn statement: "I was having a very good time with my wife at a concern and I felt young again. I drank a lot. I left all my cares and worries at home ... I didn't stop and think of exactly the consequences [of using marijuana]."

g. The members of the administrative separation board found the preponderance of evidence substantiated the basis and recommended his separation under Other Than Honorable (OTH) conditions. Petitioner's commanding officer concurred with this recommendation.

h. On 6 December 2005, Commander, Naval Personnel Command, approved the recommendation and directed Petitioner's discharge. Petitioner was so discharged that same day. At time of his discharge, Petitioner had 19 years, 1 month, and 6 days of total active service. At the time of 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 31 October 1989 to 12 May 2004.

i. Petitioner contends that he desires to complete his 20 years of service to be eligible for pension, medical benefits, and veteran status after having served honorably for over 19 years. He acknowledges that he was discharged for a single positive drug urinalysis for marijuana. He also asserts that he had undiagnosed post-traumatic stress disorder (PTSD) since 1992. He believes the factors contributing to his PTSD include: in June of 1992, he received news that his mother and sister were killed in a car accident, he did not receive grief counseling and only had a few days to fly home for the funerals, his personal life unraveled as he went through a divorce, he remarried someone with bipolar disorder and experienced stress due to her personal issues and frequent drug abuse, he routinely acted as a single parent during her drug binges, his in-service instance of marijuana use was to find solace in the chaos of his world and to self-medicate his anxiety, sleep disturbances, vertigo, emotional numbness, and other symptoms that were trauma responses. He believes that his lengthy career warrants consideration of clemency and states that losing his career for a minor mistake has negatively impacted him and nearly left him homeless.

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He also claims that he would have appealed his discharge if he had proper legal representation at the time.

j. In support of his contentions, Petitioner submitted a letter from his legal counsel, a list of his post-service accomplishments, his resume, a character letter, a gospel ministry certificate, and a supplemental statement that he is unable to obtain medical records.

k. Because Petitioner contends that PTSD or another mental health condition mitigates the severity of his discharge, the Board requested enclosure (2) for consideration. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical evidence in support of his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given the Petitioner's statement regarding his substance use in service. There are some inconsistencies in his record that raise doubt regarding his candor or the reliability of his recall. 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, "it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. As an initial matter, as discussed previously, Petitioner's DD Form 214 does not annotate his period of continuous Honorable service from 31 October 1989 to 12 May 2004, and requires correction.

Regarding Petitioner's other requested relief, the Board initially concluded he was appropriately processed for administrative separation based on his drug abuse. While the Board carefully considered Petitioner's contention for mitigation, the Board noted he admitted committed the misconduct that formed the basis for his administrative separation and OTH discharge. In addition, the Board was not persuaded by Petitioner's allegation of denial of due process. The Board noted Petitioner was represented by qualified legal counsel throughout his administrative separation proceeding. Therefore, the Board determined the presumption of regularity applies to Petitioner's administrative separation and no error exists with his record.

The Board also 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

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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 provided no medical evidence in support of his claim. 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 a 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.

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, Petitioner's desire for an upgrade to his characterization of service, Petitioner's contentions, the totality of his service, Petitioner's need for veterans' benefits, the non-violent nature of his misconduct, the negative effect Petitioner's discharge has had on his life, Petitioner's rehabilitation efforts and post-service record of accomplishments, Petitioner's service to his community, Petitioner's claimed mental health issues, Petitioner's advanced age, the character reference Petitioner provided for review, and the passage of time since his discharge.

The Board found that the mitigating factors were sufficient to justify equitable relief. Considering the length and quality of his service, the Board concluded that an Other Than Honorable discharge for a single instance of marijuana use after 19 years was unduly harsh and resulted in an injustice. As a result, the Board concluded that the favorable factors Petitioner submitted for consideration of clemency sufficiently outweighed the misconduct evidenced by his single NJP for marijuana use to warrant upgrading his characterization of service to General (Under Honorable Conditions), changing his basis for separation to Secretarial Authority, and changing his reentry code to RE-1J.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. While the Board found the mitigation factors present in Petitioner's case supported the recommended relief, they determined it was insufficient to support a fully Honorable discharge. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of drug abuse, especially after 19 years of service, led them to conclude that his service during his last enlistment period was not Honorable.

Further, contrary to Petitioner's belief that he should be entitled to a military retirement and associated benefits due to his over 19 years of service, the Board disagreed. While Petitioner's previous period of continuous Honorable service is required to be included in his record to document his accomplishments, the Board noted there is no similar right to retire from the Navy prior to reaching 20 years of active duty service. In fact, for longevity retirements, the period of service statutorily required. The Board acknowledged there are statutory exceptions to this requirement but noted Petitioner does not qualify for any based on the circumstances of his case and his service record. Additionally, after weighing the mitigation factors in Petitioner's case

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against the circumstances of his drug abuse, the Board determined they were insufficient to support granting service credit to allow Petitioner to reach 20 years of service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending on 6 December 2005, he was discharged with a "General (Under Honorable Conditions) characterization of service, separation authority of "MILPERSMAN 1910-164," narrative reason for his separation of "Secretarial Authority," separation code of "JFF," reentry code of "RE-1J," and block 18 remarks that document Petitioner's period of continuous Honorable service from "31 October 1989 through 12 May 2004."

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

While this recommendation makes the Petitioner administratively eligible for reenlistment, it is not to be construed as a mandate or guarantee of future service. Whether Petitioner is qualified for reenlistment or should be reenlisted rests with the appropriate reenlistment authorities and the needs of the service.

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.

3/19/2026

