



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

■
Docket No. 4798-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■■■■■■
XXX XX ■■■■■ USMC

Ref: (a) 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) USECDEF Memo of 25 Aug 17 (Kurta Memo)
(d) SECDEF Memo of 13 Sep 14 (Hagel Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion of 28 Nov 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) requesting upgrade of his characterization of service to General (Under Honorable Conditions) on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 1 December 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 include references (b) through (d). Additionally, the Board considered enclosure (4), 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.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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c. Petitioner enlisted in the Marine Corps after disclosing pre-service marijuana use and receiving a waiver for driving under the influence (DUI), minor in possession, and two counts of public intoxication and began a period of active service on 21 April 2003. After a period of continuous Honorable service, he immediately reenlisted on 11 October 2006. His first enlistment period included deployments, from 16 January 2005 to 14 August 2005 and 28 February 2006 to 4 September 2006, where he earned the Navy and Marine Corps Achievement Medal (NAM) and the Iraq Campaign Medal.

d. On 1 November 2006, Petitioner was promoted to Sergeant (E-5). On 24 July 2008, Petitioner's command received notification of Petitioner's positive urinalysis for cocaine. On 29 August 2008, Petitioner submitted a written request for an undesirable discharge in order to avoid trial by court-martial for wrongful use of cocaine. Prior to submitting this request, he conferred with a qualified military lawyer at which time he was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. His request was granted, and his commanding officer was directed to issue him an Under Other Than Honorable conditions (OTH) discharge. Petitioner was so discharged on 10 October 2008. At the time of his discharge, Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 21 April 2003 to 10 October 2006.

e. Petitioner contends he was suffering from post-traumatic stress disorder (PTSD) at the time of his separation and he desires an upgrade to his characterization of service so he can purchase his first home with a loan from the Department of Veterans Affairs (VA). Petitioner submitted copies of active-duty medical records from 2007 and 2008.

f. As part of the Board's review, the Board considered enclosure (4). The AO states in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of his separation.

In September 2007, the Petitioner received emergency treatment for anxiety and insomnia due to stress. He received medication to assist with sleep difficulties.

In July 2008, he tested positive for cocaine on a command urinalysis. The Petitioner was referred for a mental health evaluation "secondary to chronic insomnia...[experienced] since he was a child. States that he will lay in bed and think about things that did occur in his past and things that have not happened but... 'what if'... Patient has been deployed twice to Iraq... on his second deployment, a convoy he was in was hit by an IED; however, patient denies any problems with these experiences." He was diagnosed with Anxiety Disorder Not Otherwise Specified (NOS). Occupational stressors and a history of alcohol abuse were noted. He continued with follow-up mental health treatment through August 2008, with no change in diagnosis.

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In October 2008, the Petitioner received medication treatment from his primary care physician for a diagnosis of acute PTSD. He was discharged under other than honorable conditions.

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His anxiety disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. Prior to separation from service, it appears that a medical officer also noted a diagnosis of PTSD. Although the Petitioner reported that his anxiety and insomnia symptoms preceded his military service, it is plausible that combat exposure may have increased his symptoms. Unfortunately, it is difficult to attribute his substance use solely to self-medication of anxiety symptoms, given pre-service problematic alcohol and substance use behavior.

The AO concluded, "it is my considered clinical opinion that there is in-service evidence of a mental health condition that may have been exacerbated by military service. There is insufficient evidence that his misconduct may be attributed solely to PTSD or another 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. Specifically, as discussed previously, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's OTH characterization of service for misconduct due to drug abuse. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (d). These included Petitioner's desire for a discharge upgrade and his previously discussed contentions. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which consisted of his DD Form 149 and the evidence he provided in support of his application.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his separation in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it involved 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. Further, the Board believed that considerable clemency was already extended to Petitioner when his request for discharge to avoid trial by court-martial was approved.

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Additionally, the Board concurred with the AO and determined that, while there is in-service evidence of a mental health condition that may have been exacerbated by military service, there is insufficient evidence that his misconduct may be attributed solely to PTSD or another mental health condition. 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 sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. 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. 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 his 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 his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits.

As a result, 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 him the relief he requested or granting additional relief as a matter of clemency or equity.

RECOMMENDATION

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), for the period ending 10 October 2008, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 21APR2003 TO 10OCT2006."

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

1/2/2026

