



Docket No. 4963-25
Ref: Signature Date

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

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

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)

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. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED] 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, Petitioner did not 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.

b. Petitioner enlisted in the Navy and began a period of active duty on 8 April 1998. As part of his enlistment processing, he disclosed a pre-service drug-related offense. After a period of continuous Honorable service, Petitioner immediately reenlisted and commenced another period of active duty on 31 August 2001.

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c. On 31 October 2001, Petitioner urinalysis screening test was reported positive for cocaine metabolites. As a result, he was subject to nonjudicial punishment (NJP), on 1 November 2001, for violating Article 112a, Uniform Code of Military Justice (UCMJ), due to wrongful use of a controlled substance.

d. On 2 November 2001, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse. He elected to waive his right to request a hearing before an administrative separation board and his commanding officer forwarded a recommendation for his discharge under Other Than Honorable (OTH) conditions.

e. Ultimately, Petitioner was approved for separation and discharged with an OTH on 7 December 2001. Upon 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 8 April 1998 to 30 August 2001.

f. Petitioner contends that his discharge was the result of unrecognized and untreated service-connected post-traumatic stress disorder (PTSD) and Major Depressive Disorder (MDD), which he believes explains that there was a medical basis for his misconduct. He also submitted clemency evidence of post-discharge character and accomplishments, to include sustained rehabilitation. Petitioner asserts that he has lived drug free for over 20 years, served as a Red Cross lifeguard, supported his family, and earned multiple IT certifications with continuous growth. He submitted medical records and his post-service certifications in support of his contentions.

g. Because Petitioner contends that a mental health condition affected the circumstances of the misconduct which resulted in his discharge, the Board requested enclosure (2). 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 noted diagnoses of PTSD and another mental health condition that may be attributed to purported traumatic precipitants incurred during his military service. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 some post-service evidence from the VA of diagnoses of PTSD and 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."

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CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. Specifically, as discussed previously, Petitioner's DD Form 214 did not annotate his period of continuous Honorable service and requires correction.

Notwithstanding the recommended corrective action below, the Board determined no additional relief was warranted. With regard to Petitioner's request for a discharge upgrade, 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 did not deny committing the misconduct that formed the basis for his administrative separation and OTH discharge. 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 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 temporally remote medical evidence. 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 agreed the available records are simply not detailed enough to provide a nexus between a mental health condition and his misconduct.

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, his contentions, the totality of his service, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, his rehabilitation efforts and post-service record of accomplishments, his mental health issues, and the passage of time since his discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any additionally equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct far outweighed all of the mitigating factors combined. In particular, the Board noted that Petitioner served more than three years prior to his drug abuse incident and was clearly aware of the Navy's policy prohibiting drug use. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Therefore, the Board found that Petitioner's conduct showed a complete disregard for military authority and regulations. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's misconduct led them to conclude that his service

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was not Honorable in any way. Finally, the Board believed that it would be unjust to characterize Petitioner's less than honorable service in the same manner as the service of the thousands of service members who, unlike Petitioner, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of Petitioner's discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. 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 Correction to Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 7 December 2001, by adding to his block 18 remarks:

"CONTINUOUS HONORABLE SERVICE FROM 8APR1998 TO 30AUG2001."

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.

3/19/2026

