

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

c. Petitioner enlisted in the Navy and began a period of active service on 30 October 2000. After a period of continuous Honorable service, he immediately reenlisted and commenced another period of active duty on 8 October 2004.

d. Unfortunately, the documents pertinent to Petitioner's disciplinary proceedings and 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. Petitioner's awards page indicates he received non-judicial punishment (NJP) on 18 March 2005. Petitioner's Evaluation and Counseling Record of 24 August 2005 indicates he received NJP for failure to obey a lawful order and drunken or reckless operation of a vehicle on 17 August 2005. Based on the information contained on Petitioner's DD Form 214, he was separated, on 24 August 2005, with an "General (Under Honorable Conditions)" characterization of service, narrative reason for separation of "Pattern of Misconduct," reentry code of "RE-4," and separation code of "JKA;" which corresponds to pattern of discreditable behavior with civil or military authorities (no board entitlement). Petitioner's DD Form 214 did not annotate his period of continuous Honorable service from 30 October 2000 to 7 October 2004.

e. Petitioner contends that his misconduct, which included missing watch, drunk on duty, and DUI, was because he suffered a brain aneurism during service that he attributes to stress from the Navy, including "almost dying aboard ship and then again in a motorcycle accident." Petitioner also contends that he has become a chief radiologist since his discharge. Petitioner submitted post-service mental health records and a decision letter from the Department of Veterans Affairs (VA).

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) and other mental health concerns during military service, which may have contributed to the circumstances of his separation from service.

Petitioner submitted the following records for review:

- Personal statement regarding his service experience. Petitioner contended he incurred an alcohol use disorder following a medical event.
- Evidence of service connection for Mild Neurocognitive Disorder, due to brain hemorrhage and Adjustment Disorder with mixed anxiety and depressed mood.
- Additional mental health evidence including:

Petitioner provided the record of a March 2014 Compensation and Pension Examination (C&P) for mental disorders other than PTSD, noting diagnoses of

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Mild Neurocognitive Disorder, Adjustment Disorder with Anxiety, and Alcohol Use Disorder, moderate.

Petitioner submitted excerpted mental health treatment records from February 2017 to October 2018 listing mental health diagnoses of Major Depressive Disorder, recurrent, moderate; Generalized Anxiety Disorder; and Alcohol Abuse. Petitioner described experiencing an aneurism in service and subsequently experiencing on-going mental health symptoms consistent with PTSD related to the in-service medical event.

There is no evidence that the Petitioner received a formal diagnosis of PTSD or another mental health condition during military service, although there is some behavioral evidence of a possible alcohol use disorder. Temporally remote to his military service, the VA has provided service connection for a brain injury and mental health concerns. The Petitioner does appear to have completed several years of successful service prior to his NJP and separation. It is plausible that problematic alcohol use may have begun or increased following a serious medical event requiring significant recovery interventions. It is possible to consider his problematic alcohol use and disobedience as behavioral indicators of mental health symptoms following a traumatic medical event.

The AO concluded, “it is my considered clinical opinion that there is post-service evidence from the VA of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is post-service evidence that the Petitioner’s misconduct may be attributed 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, the Board found no error with Petitioner’s GEN characterization of service or discharge for misconduct. The Board noted Petitioner did not deny committing the misconduct that formed the basis of his administrative separation and GEN discharge. However, after applying 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, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service and determined sufficient evidence exists conclude that the misconduct for which he was discharged was excused or mitigated by his mental health condition. In this regard, the Board concurred with the findings of the AO and concluded it was in the interests of justice to change Petitioner’s reason for separation and separation code to reflect a Secretarial Authority discharge.

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Notwithstanding the recommended relief below, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant complete relief. Specifically, the Board noted that being drunk on duty and driving while intoxicated is contrary to military core values and policy and poses an unnecessary risk to the safety of his fellow servicemembers. The Board also considered the likely negative impact Petitioner's repeated misconduct had on the good order and discipline of his command. Additionally, the Board noted that Petitioner's military bearing marks in his second enlistment were insufficient to warrant a fully Honorable characterization of service. While the Board acknowledged that a mental health condition may have reasonably existed at the time of Petitioner's misconduct, they determined that the severity of Petitioner's misconduct was substantial and outweighed mitigation due to a mental health condition to support any further relief.

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, the totality of Petitioner's service, Petitioner's relative youth and immaturity at the time of his misconduct, the negative effect Petitioner's discharge has had on his life, his rehabilitation efforts, his service connected disability issues, and the passage of time since his discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any further equitable relief. Specifically, as discussed above, the Board found that the severity of Petitioner's misconduct sufficiently outweighed all of the mitigating factors combined to support any additional relief. Further, 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. Moreover, the Board determined Petitioner already received a large measure of clemency when he was discharged with a GEN characterization of service despite possessing a record of misconduct that normally resulted in an Other Than Honorable discharge. Therefore, the Board did not find an upgrade of Petitioner's discharge to Honorable to be warranted in the interests of justice. Based on the same rationale, the Board found Petitioner's reentry code remains appropriate.

Finally, as previously discussed, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service for his first enlistment and requires correction.

RECOMMENDATION:

That Petitioner be issued a new DD Form 214, for the period ending 24 August 2005, indicating he was discharged with a separation authority of "MILPERSMAN 1910-164," separation code of "JFF," narrative reason for separation of "Secretarial Authority," and Block 18, "Remarks" that state, "CONTINUOUS HONORABLE ACTIVE SERVICE [REDACTED]"

That all other information from his DD Form 214 remain the same with no further changes be made to Petitioner's record.

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

2/18/2026

