



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

█
Docket No. 6146-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █
█ XXX XX █ USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) USD Memo of 25 August 2017 (Kurta Memo)
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Corrections of Naval Records (Board), requesting that his naval record be corrected to upgrade his characterization of service to Honorable and to make other conforming changes to his DD Form 214.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 13 March 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, and applicable statutes, regulations, and policies, to include references (b) through (d). Additionally, the Board also considered an advisory opinion (AO), furnished by qualified mental health provider, that was considered favorable to Petitioner.

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, it is in the interests of justice to review the application on its merits.

c. Petitioner enlisted in the U.S. Marine Corps and began a period of active service on or about 18 March 2005. During calendar year 2006, Petitioner was deployed to Iraq in support of Operation Iraqi Freedom.

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d. On or about 4 April 2006, Petitioner received shrapnel wounds to his lower leg while conducting combat operations against enemy forces in the Al Anbar Province. On 5 April 2006, Petitioner received the Purple Heart Medal for his wounds received in action.

e. In June 2007, Petitioner underwent a military psychiatric evaluation for PTSD by the concussion clinic. Petitioner was diagnosed with "PTSD, chronic," attributed to his April 2006 combat injury.

f. On 21 December 2007, a Navy Drug Screening Laboratory message indicated the Petitioner tested positive for cocaine at a level above the Department of Defense cut-off standard. On 4 January 2008, Petitioner's command placed a Page 11 counseling entry (Page 11) in his service record documenting his drug-related incident. The Page 11 advised him that separation processing was mandatory, and that he was being recommended for an administrative separation.

g. On 14 January 2008, Petitioner's command placed a Page 11 entry in his service record where he acknowledged he was eligible, but not recommended, for promotion during the month of February due to his lack of judgment.

h. On 31 January 2008, Petitioner received non-judicial punishment (NJP) for the wrongful use of a controlled substance (cocaine). Petitioner did not appeal the NJP. On the same day, Petitioner's command placed a Page 11 entry in his service record where he acknowledged he was eligible, but not recommended, for promotion due to his drug-related violation.

i. On 15 May 2008, Petitioner's command notified him of administrative separation proceedings by reason of misconduct due to drug abuse. Petitioner waived his rights to consult with counsel, include written rebuttal statements, and to request a hearing before an administrative separation board. On the same day, Petitioner's commanding officer (CO) recommended to the Separation Authority (SA) that Petitioner receive an under Other Than Honorable conditions (OTH) characterization of service.

j. On 18 June 2008, the Staff Judge Advocate for the SA concluded that Petitioner's separation proceedings were legally and factually sufficient. On 23 July 2008, the SA approved and directed Petitioner's discharge for misconduct due to drug abuse with an OTH discharge characterization. Ultimately, on 15 August 2008, Petitioner was discharged from the Marine Corps for misconduct with an OTH characterization of service and was assigned an RE-4B reentry code.

k. A licensed clinical psychologist (Ph.D.) reviewed Petitioner's contentions and the available records and issued an AO on 17 September 2025. As part of the Board's review, the Board considered the AO. The AO stated, in pertinent part:

In May 2007, the Petitioner was referred for evaluation of post concussive symptoms. He was found "not to have Post-Concussive Syndrome." In June 2007, he was referred for a military psychiatry evaluation of PTSD by the concussion

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clinic. He was diagnosed with PTSD, chronic, attributed to his April 2006 combat injury.

During military service, the Petitioner was appropriately referred for evaluation of mental health concerns. He received a diagnosis of PTSD in service. He was also evaluated for post-concussive syndrome in service and it was determined that he did not meet criteria for that diagnosis. There is no evidence that he has residual cognitive symptoms that would be consistent with TBI. Unfortunately, there are inconsistencies in the Petitioner's statements regarding his purported substance abuse that raise doubt regarding his candor or the reliability of his recall. However, it is possible that the Petitioner's substance use may be considered behavioral evidence of symptoms associated with PTSD.

The Ph.D. concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is in-service evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence of TBI. There is post-service evidence from the Petitioner that his misconduct may be attributed to PTSD."

1. Petitioner requested liberal consideration and clemency in the form of a discharge upgrade to Honorable and associated changes to his reason for separation, separation code, and reentry code. In short, Petitioner contended he was suffering from post-traumatic stress disorder (PTSD) after sustaining serious bodily injuries as a result of an IED explosion during his combat deployment in Iraq. Petitioner requested that the Board grant liberal consideration that his mental health-related considerations mitigated the self-medicating behavior leading to his discharge, and were not outweighed by the seriousness of his misconduct. Petitioner further requested relief based on Wilkie Memo clemency considerations.

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. 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 characterization. Therefore, the Board determined the presumption of regularity applies to Petitioner's administrative separation and no error exists with his record.

However, 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. Additionally, the Board found sufficient evidence to conclude that the misconduct for which Petitioner was

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discharged was excused or mitigated by his mental health condition since his discharge and characterization were not outweighed by the severity of Petitioner's misconduct. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been with an OTH, and that a discharge upgrade to "General (Under Honorable Conditions)" (GEN) is appropriate at this time.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an Honorable discharge characterization. The Board believed that, even though flawless service is not required for an Honorable discharge, in this case a GEN discharge and no higher was appropriate. While the Board noted that flawless service is not required to receive an Honorable characterization of service, Petitioner's drug use led them to conclude that his service was not Honorable and the mitigation evidence related to his mental health condition, even liberally considered, was insufficient to outweigh his misconduct sufficient to support a higher discharge upgrade.

The Board was also not willing to reinstate Petitioner's rank back to Corporal (E-4) that he lost at NJP. The Board determined that the punishment he received was not disproportionate to the drug offense he committed, and was well within his commanding officer's (CO) discretion to award. The Board also concluded that the mere taking of remedial action with Petitioner's discharge characterization would not by itself invalidate an otherwise proper action taken by his CO pursuant to the Uniform Code of Military Justice.

Lastly, the Board determined Petitioner's original RE-4B reenlistment/reentry code, narrative reason for separation, and separation code remains appropriate. The Board concluded the Petitioner was assigned the correct reentry code, narrative reason for separation, and separation code based on the totality of his circumstances, and that such reentry code, narrative reason for separation, and separation code as listed on Petitioner's DD Form 214 were entirely proper and in compliance with all Department of the Navy directives and policy at the time of his discharge. In making this finding, the Board determined the significant clemency being afforded to Petitioner through his discharge upgrade to GEN was sufficient to address any injustice in his record.

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 a upgrade to his characterization of service and make other associated changes to his record, his contentions, the totality of his service, his need for veterans' benefits, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, the negative effect his discharge has had on his life, his rehabilitation efforts, his mental health and other health 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, the Board found that the severity of Petitioner's misconduct far outweighed all of the mitigating factors combined to support any additional relief.

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Therefore, even in light of the Wilkie Memo, the Board still similarly concluded after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency and leniency, that the Petitioner only merits a GEN characterization of service and no additional relief.

RECOMMENDATION:

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

That Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty, for the period ending 15 August 2008, indicating he was discharged with a "General (Under Honorable Conditions)" characterization of service.

That Headquarters, U.S. Marine Corps review Petitioner's complete service records to determine any additional decorations, medals, awards, badges, citations, and campaign ribbons Petitioner may be authorized or entitled to receive based on his OIF-era deployment.

That no other change to Petitioner's record is merited.

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 Regulations, 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.

3/20/2026

