



Docket No. 7086-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF

Ref: (a) Title 10 U.S.C. §1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) USECDEF Memo of 25 Aug 2017 (Kurta Memo)
(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)
(3) Advisory opinion

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 for an upgrade of his characterization of service to General (Under Honorable Conditions) (GEN).

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 20 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, applicable statutes, regulations, and policies, to include references (b) through (d). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional, and Petitioner's response to the AO.

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 regulation within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in the interests of justice.

c. Petitioner enlisted in the Navy and began a period of active duty on 10 April 1991.

d. On 24 February 1994, Petitioner received non-judicial punishment (NJP) for failure to disobeying a lawful order and disrespect towards a superior petty officer. He received his second

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

NJP, on 12 June 1994, for failing to obey a lawful order and two specifications of unauthorized absence (UA).

e. On 14 June 1994, Petitioner was notified of administrative processing for separation by reason of misconduct due to commission of a serious offense. He waived his procedural rights to consult with counsel and to have his case heard before an administrative discharge board.

f. The commanding officer (CO) forwarded the separation package, recommending a General (under Honorable Conditions) (GEN) characterization of service. In his comments, the CO stated, "[Petitioner] has no potential for future productive naval service, but his offenses are not so grave that they warrant an OTH characterization." However, the Separation Authority directed Petitioner's separation with an Other than Honorable (OTH) characterization of service and, on 13 July 1994, he was so discharged.

g. Petitioner contends the following injustices warranting relief:

(1) He was raped while on active duty, mugged, and, shortly after, witnessed the sea sparrow incident;

(2) He feels as though his Navy career was cut short because of these incidents;

(3) He truly feels as though the multiple assaults, including the mugging, led to his discharge.

h. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149, decision letters from the Department of Veteran's Affairs (VA), and character letters.

i. As part of the Board's review, a qualified mental health professional reviewed Petitioner's contentions and the available records and provided the Board with enclosure (3). 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. Temporally remote to his military service, the VA has granted service connection for Post-Traumatic Stress Disorder (PTSD) and other mental health concerns. 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, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service VA evidence of diagnoses of PTSD and other mental health concerns that may be attributed to military combat service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

j. In response to the AO, Petitioner provided additional documents in support of his claim, including a spousal letter of support, list of relevant events, pages from his mental health records, additional character letters, and pages from a NAVAIR Manual. After reviewing Petitioner's rebuttal evidence, the AO remained unchanged.

CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants relief.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. The Board noted he did not deny committing the misconduct that formed the basis of 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.

However, because Petitioner based his claim for relief in whole or in part upon his PTSD and MST, the Board applied liberal consideration to Petitioner's PTSD and MST experience and the effect that it may have had upon the conduct for which he was discharged. Applying such liberal consideration, the Board found sufficient evidence to conclude that Petitioner may have developed PTSD and other mental health condition during his naval service. This conclusion is supported by the temporally-remote assessment and diagnosis rendered by the VA as well as 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 PTSD condition and/or other mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion.

In addition to applying liberal consideration to Petitioner's claimed mental health condition and its potential effect upon his conduct in accordance with the references (b) and (c), the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (d). 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 record of accomplishments, his mental health issues, the evidence he provided in support of his application, the character references he provided for review, and the passage of time since his discharge.

The Board found that the mitigating factors were sufficient to justify equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct was outweighed by all of the mitigating factors combined. In particular, the Board noted that the CO concluded Petitioner's misconduct was not so grave to warrant an OTH characterization of service. That information, when combined with Petitioner's post-service good conduct evidence, was sufficient to support the requested relief of upgrading Petitioner's characterization of service to GEN.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Notwithstanding the recommended corrective action below, the Board was not willing to grant any further relief. 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 was not Honorable. 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. Therefore, the Board found that a GEN discharge characterization and no higher was appropriate. Based on the same rationale, the Board also concluded Petitioner's reason for separation and reentry code also remain appropriate.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 13 July 1994, he was discharged with a "General (under Honorable Conditions)" characterization of service. That all other information currently listed on Petitioner's DD Form 214 remains the same.

That no further correction action be taken on Petitioner's naval record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

4/3/2026

