



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

Docket No. 7754-25
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552
(b) USD Memo of 25 Aug 17 (Kurta Memo)
(c) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)
(3) Advisory Opinion of 18 December 2025

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his discharge be upgraded, and that his separation and reentry codes be changed.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 6 April 2026 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) and (c). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional. 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 Board found it in the interest of justice to waive the statute of limitations in the interests of justice.

c. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 8 June 2004.

d. In October 2004, Petitioner was medically evaluated after expressing suicidal ideations and was diagnosed with an Adjustment Disorder.

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e. On 19 November 2004, Petitioner received administrative remarks counseling for failure to follow rules and regulations, specifically for discarding live ammunition prior to a night live-fire event. Petitioner elected not to submit a statement in rebuttal.

f. On 22 November 2004, Petitioner commenced a period of unauthorized absence (UA) that terminated on 28 January 2005.

g. In February 2005, Petitioner was evaluated by a military psychiatrist and diagnosed with a Personality Disorder Not Otherwise Specified (NOS), with Cluster B personality features. He was also recommended for administrative separation.

h. On 15 March 2005, Petitioner received nonjudicial punishment (NJP) for his 67-day period of UA in violation of Article 86 of the Uniform Code of Military Justice (UCMJ). His punishment consisted of forfeiture of \$617.00 pay per month for two months, and 45 days of restriction and extra duty.

i. On 18 March 2005, Petitioner was notified of the initiation of administrative separation processing for his diagnosed personality disorder. Petitioner acknowledged the notification, waived his procedural right to consult with counsel, and waived his right to have the case heard before an administrative discharge board.

j. On 6 April 2005, Petitioner received a second NJP for failure to obey an order in violation of Article 92, of the UCMJ. His punishment consisted of forfeiture of \$617.00 pay per month for two months (with one month suspended), and 30 days of restriction and extra duty.

k. The Separation Authority subsequently directed Petitioner's separation and, on 12 April 2005, Petitioner was discharged by reason of personality disorder with a General (Under Honorable Conditions) (GEN) characterization of service.

l. Petitioner contends that he incurred mental health concerns during military service. He also contends that, subsequent to his service in the Marine Corps, he was awarded a service-connection Department of Veterans Affairs (VA) disability rating for depression and anxiety. Petitioner maintains that these conditions were present during his period of service and contributed to the difficulties he experienced, but were misunderstood, misdiagnosed, and ultimately characterized as a personality disorder. He also contends that his VA disability rating constitutes relevant evidence in support of his request and warrants a fair and accurate correction of his naval record.

m. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with enclosure (3). The AO stated in pertinent part:

Petitioner was formally evaluated during military service. His personality and adjustment diagnoses were 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.

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Temporally remote to his military service, the VA has granted service connection for a mental health concern. It is possible that mental health symptoms conceptualized as adjustment-related during military service have been reconceptualized as depression symptoms with the passage of time and increased understanding.

His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of another mental health condition incurred in or exacerbated by military service. 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 evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to a mental health condition, other than personality disorder."

In response to the AO, Petitioner submitted additional evidence addressing aspects of the AO. Upon reviewing Petitioner's rebuttal evidence, the AO remained unchanged.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, in keeping with the letter and spirit of the Kurta and Wilkie Memos, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior and/or adjustment disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge or change Petitioner's reentry code.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his diagnosed personality disorder. The Board also noted Petitioner did not deny committing the misconduct that formed the basis of his OTH discharge. While the Board considered Petitioner's contention he was misdiagnosed, the Board concurred with the AO that his diagnosed personality disorder was based on medical evidence presented at the time of his service. In the end, the Board determined the medical evidence from Petitioner's service merited greater weight than the temporally remote medical evidence. Therefore, the Board determined the presumption of regularity applies to Petitioner's administrative separation and personality disorder diagnosis, and no error exists with his record.

However, because Petitioner raised the issue of mental health, 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 were 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 post-service 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 a mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. 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.

In addition to 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 Petitioner was discharged in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief was 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, Petitioner's contentions, the totality of Petitioner's service to include service highlights, the non-violent nature of Petitioner's misconduct, Petitioner's relative youth and immaturity at the time of his misconduct, the negative effect Petitioner's discharge has had on his life, Petitioner's rehabilitation efforts, Petitioner's current mental health issues, the evidence Petitioner provided in support of his application, and the passage of time since Petitioner's 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. In particular, the Board found that Petitioner's conduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct, which led to Petitioner's GEN discharge. Petitioner's conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Therefore, even taking into consideration all the mitigation factors in Petitioner's case, the Board found that his misconduct while on active duty outweighed the mitigation evidence offered. In making this finding, the Board took into consideration that Petitioner already received significant clemency from the Marine Corps when he was assigned a GEN characterization of service for conduct that normally results in an Other Than Honorable discharge. While the Board acknowledged the personal difficulties Petitioner has endured, ultimately, the Board concluded an upgrade of Petitioner's discharge characterization of service is not warranted in the interests of justice. Based on the same rationale and Petitioner's unsuitability for further military service, the Board also determined Petitioner's assigned reentry code remains appropriate. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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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 the Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 12 April 2005, he was discharged with a narrative reason for separation of "Secretarial Authority," SPD code of "JFF1," and separation authority of "MARCORSEPMAN Para 6214." That all other information currently listed on Petitioner's DD Form 214 remains the same.

That no further changes be made to Petitioner's 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.

4/21/2026

