



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

[REDACTED]
Docket No. 7762-25
Ref: Signature Date

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

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

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) of 23 December 25

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 and that his narrative reason for separation, separation code, reentry code, and separation authority be changed to reflect a "Secretarial Authority" discharge. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 8 May 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. 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 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.

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c. Petitioner enlisted in the Marine Corps and began a period of active duty on 11 July 1984. After a period of continuous Honorable service, he reenlisted for a period on 13 July 1987.

d. On 28 April 1989, Petitioner was issued administrative counseling documenting his failure to be at appointed place [of duty] at the appointed time. He received a similar counseling entry on 15 May 1989.

e. On 7 February 1990, Petitioner's spouse died due to sepsis following heart failure due to a congenital heart defect. Petitioner commenced mental health treatment in May 1990.

f. In June 1990, Petitioner was diagnosed with Personality Disorder (NOS).

g. On 16 July 1990, Petitioner received his second award of the Good Conduct Medal.

h. On 18 October 1990, Petitioner was subject to nonjudicial punishment (NJP) for multiple violations of the Uniform Code of Military Justice (UCMJ), to include Article 86, for an unauthorized absence (UA) from 0645, 27 September 1990 through 0730, 2 October 1990, Article 86, for failure to go directly, at the time prescribed, for duty on 5 October 1990, Article 91, for willfully disobeying an order from a Gunnery Sergeant to proceed directly to a specified building rather than via the Marine Corps Exchange, which resulted in his arriving two hours late. Following this NJP, Petitioner was issued administrative counseling warning him that failure to correct his conduct deficiencies could result in administrative discharge.

i. In October 1990, Petitioner was recommended for hospitalization due to Major Depressive Disorder with suicidal ideation.

j. On 4 December 1990, Petitioner was issued an administrative counseling warning advising him of his frequent involvement with military authorities, to include conduct unbecoming of a Marine by frequent and flagrant involvement with a married woman in the civilian community, which was causing hardship on himself and her family.

k. On 11 January 1991, Petitioner was convicted by Summary Court-Martial (SCM) for UCMJ violations, to include two specifications under Article 86, for failure to go at the time prescribed to physical training on 14 November 1990 and for failure to go at the time prescribed to the legal office on 3 December 1990, and Article 91, for willfully disobeying a lawful order to accompany a noncommissioned officer to physical training. He was sentenced to reduction to the paygrade of E-1, 60 days restriction, and forfeiture of \$502 pay.

l. On 23 January 1991, Petitioner was notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct (POM) and due to minor disciplinary infractions. He requested a hearing before an administrative separation board (ADB), which convened on 22 February 1991. The members of the ADB substantiated both bases for separation and recommended that he be separation with a characterization of under Other Than Honorable (OTH) conditions.

m. On 7 March 1991, following completion of legal review, Commanding General, [REDACTED] approved Petitioner's OTH discharge for the primary basis of POM. Petitioner was so discharged on 3 April 1991.

n. Petitioner contends that his marriage tragically ended when his wife died following unsuccessful open-heart surgery, which she had sought so that they would be able to have children, as her congenital heart condition rendered pregnancy high risk. She was initially placed on life support, and he had to make the difficult decision at the age of 23 to remove her from life support. After her death, he faced serious mental health challenges and depression, despite taking compassionate leave. He notes that his records reflect his efforts to obtain mental health care during his military service. He also requested a hardship discharge, which he asserts that his commanding officer (CO) supported; however, prior to pursuing the hardship discharge, his CO took leave and a new CO declined to assist with the request. He attributes his instances of misconduct to his depression and requests liberal consideration. In addition to his legal counsel's brief and personal declaration, he submitted policy memos, background information, his spouse's death certificate, and five letters of recommendation in support of his request.

o. Because Petitioner contends a mental health condition, the Board also requested enclosure (2) for consideration. The AO stated in pertinent part:

There is evidence that the Petitioner was diagnosed with mental health concerns in military service. While the diagnosis varied depending on the clinician, there is consistent evidence that the Petitioner experience significant emotional difficulty following the death of his wife. He was also diagnosed with a personality disorder, which indicates characterological difficulties that are lifelong. The Petitioner's military behavioral difficulties resulting in formal counseling prior to the death of his wife are consistent with his diagnosed personality disorder. It is possible to consider UA and disobedience following the death of his wife as behavioral indicators of anhedonia and irritability consistent with depression. 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 in-service evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that all of his misconduct may be attributed to a mental health condition, other than personality disorder.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded 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 Petitioner did not deny

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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 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. Additionally, after applying liberal consideration, the Board found sufficient 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 again the AO that some of Petitioner misconduct could be attributed to a mental health condition.

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 post-service record of accomplishments, Petitioner's candor and remorse, Petitioner's service to his community, Petitioner's mental health issues and the effect his wife's passing had on him at the time, disparate treatment between Petitioner and others, the harshness of Petitioner's punishment, the evidence Petitioner provided in support of his application, the character references Petitioner provided for review, and the passage of time since Petitioner's discharge.

The Board found that the mitigating factors were sufficient to justify equitable relief. Specifically, the Board observed that Petitioner served successfully during his first enlistment and into his second enlistment, to include earning the GCM award for two consecutive periods of good conduct, and his misconduct concerns appear to have begun after his wife's untimely death. The Board noted that Petitioner's misconduct was relatively minor in contrast to his struggles with his bereavement and his mental health struggles, which the Board found sufficiently mitigating to warrant consideration of clemency, particularly in consideration of his conduct prior to that tragedy as well as his recovery in his post-discharge years. As a result, the Board found that the totality of favorable matters in support of clemency outweighed the misconduct which resulted in Petitioner's discharge. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to Honorable and change his record to reflect a Secretarial Authority discharge.

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

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RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending on 3 April 1991, he was discharged with an "HONORABLE" characterization of service, separation authority of "MARCORSEPMAN par 6214," narrative reason for separation of "Determination of the Service Secretary – Secretary of the Navy Plenary Authority," separation code of "JFF1," and reentry code of "RE-1." That all other information currently listed on Petitioner's DD Form 214 remains the same.

That Petitioner be issued an Honorable Discharge certificate for his second enlistment.

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.

6/1/2026

[REDACTED]