



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

■
Docket No. 8810-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■■■■■■,
USN, XXX-XX-■■■■■

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.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 27 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. Although Petitioner was provided an opportunity to comment on the AO, 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 regulation within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 27 January 1998.

d. On 19 April 2000, Petitioner received non-judicial punishment (NJP) for the wrongful use of marijuana.

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e. Consequently, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. Petitioner was advised of his procedural rights and waived his rights to consult with counsel and to request a hearing before an administrative separation board. Petitioner's commanding officer recommended to the separation authority (SA) that Petitioner receive an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and Petitioner was so discharged on 21 July 2000.

f. Petitioner contends the following injustices warranting relief:

(1) In December 1998, he participated in [REDACTED], focused on military targets in Iraq, particularly those related to weapons of mass destruction.

(2) Prior to that he was onboard when the [REDACTED] collided with the [REDACTED] 100ft away, killing four people.

(3) The reason for his discharge was due to marijuana use due to the events that occurred onboard the [REDACTED], and he was later diagnosed with PTSD where he still gets treatment.

(4) He is extremely remorseful of the actions he took, he should have went for professional help instead of resorting to the actions he did.

(5) He wishes he could go back and have a redo, but he can ask forgiveness and continue to get the treatment that he desires and needs.

(6) He has taken full responsibility for his actions and has worked extremely hard to improve himself, to be a better person and do the best he can.

g. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149, DD Form 214, personal statement, pages from his post-service medical records, pages from his service and medical records¹, his Social Security Administration benefit's statement, and his Department of Veterans Affairs Homeless Verification Letter.

h. In light of the Petitioner's assertion of PTSD and other mental health conditions, the Board requested 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. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided civilian medical evidence of a diagnosis of PTSD that is temporally remote to his military service. Unfortunately, available records are not sufficiently detailed to establish

¹ Petitioner submitted a flash drive with additional medical records that is unable to be opened do to computer security policy.

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clinical symptoms in service or provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued in service.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service civilian evidence of a diagnosis of PTSD. There is insufficient evidence that his 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 relief.

The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct. Specifically, the Board noted Petitioner admitted to committing the misconduct that formed the basis for his administrative separation, OTH characterization of service, and RE-4 reentry code. Therefore, the Board determined the presumption of regularity applies to Petitioner's NJP and resulting administrative separation.

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 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 his 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.

However, the Board also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice, in accordance with reference (d). After reviewing the record holistically, given the totality of the circumstances, purely as a matter of clemency and equity, the Board determined the interests of justice are served by upgrading his characterization of service to General (Under Honorable Conditions) (GEN) and changing his reason for separation to reflect a "Secretarial Authority" discharge. In making this finding, the Board considered the isolated and non-violent nature of Petitioner's drug use, the entirety of Petitioner's naval record, Petitioner's expression of remorse for his conduct, Petitioner's relative youth and immaturity at the time of his misconduct, and the passage of time since Petitioner's discharge.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Further, the Board determined Petitioner's record of misconduct does not support an Honorable characterization of service. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's drug related misconduct led them to conclude that his service was not Honorable. Finally, the Board believed that it would be unjust to characterize Petitioner's less than honorable service in the same

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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. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action below.

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 21 July 2000, he was discharged with an "General (Under Honorable Conditions)" characterization of service, narrative reason for separation of "Secretarial Authority," SPD code of "JFF," and separation authority of "MILPERSMAN 3630900." That all other information currently listed on Petitioner's DD Form 214 remains the same.

That no further corrective 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.

4/15/2026

