



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

■
Docket No. 10119-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■
XXX XX ■■■■■ USMC

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 Honorable and a change to his narrative reason for separation and separation code to reflect a Secretarial Authority discharge.

2. The Board, consisting of ■■■■■, ■■■■■, and ■■■■■, reviewed Petitioner's allegations of error and injustice on 5 May 2025 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). The Board also 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. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in the interests of justice.

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 15 January 1968.

c. From July 1968 to March 1969, Petitioner participated in Operations in the Republic of Vietnam (RVN). During this period, Petitioner earned two Purple Heart Medals for injuries sustained during combat.

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d. On 9 June 1969, Petitioner commenced a period of unauthorized absence (UA) that concluded upon his return to military authorities on 13 June 1969, a period totaling four days.

e. On 23 June 1969, Petitioner commenced a period of UA that concluded upon his return to military authorities on 17 September 1969, a period totaling 86 days.

f. On 4 October 1969, Petitioner was awarded as punishment forfeiture of \$75.00 pay per month for two months and reduction to the next inferior grade of E-2.

g. On 22 December 1969, Petitioner commenced a period of UA that concluded upon his return to military authorities on 12 January 1970, a period totaling 21 days. On 13 January 1970, Petitioner received NJP for the aforementioned period of UA.

h. On 2 February 1970, Petitioner commenced a period of UA that concluded upon his return to military authorities on 23 March 1970, a period totaling 49 days.

i. On 31 March 1970, Petitioner submitted a written request for separation for the good of the service (GOS) in lieu of trial by court-martial. Petitioner's offense consisted of the aforementioned period of UA totaling 49 days. Prior to submitting this request, Petitioner conferred with a military lawyer at which time Petitioner was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, Petitioner admitted his guilt to the foregoing offenses and acknowledged that his characterization of service upon discharge would be Under Other Than Honorable (OTH) conditions.

j. The separation authority approved Petitioner's request and directed his commanding officer to discharge him with an OTH characterization of service. Petitioner was so discharged on 23 April 1970.

k. Petitioner contends the following injustices warranting relief:

(1) The discharge was inequitable because his mental health condition and PTSD was a major contributing factor in the misconduct.

(2) Under the governing standards, his discharge is unjust and warrants an upgrade.

(3) He has a service-connected condition-chronic and severe PTSD that excuses and mitigates the discharge, as evidenced by his combat history and traumatic injuries.

(4) His mental health condition existed during service as evidenced by uncharacteristic misconduct preceded by traumatic injury and triggering events.

(5) The misconduct that followed his return stateside occurred only after traumatic injury which precipitated a diagnosis of chronic, severe PTSD. His diagnosed condition should be seen as a mitigating factor in the misconduct.

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1. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application, which included his DD Form 149 and the evidence he provided in support of it.

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

There is evidence that the Petitioner was diagnosed with PTSD post-service. He was wounded in combat while serving in [REDACTED]. Some of his shorter periods of unauthorized absence could be explained by avoidance of trauma symptoms caused by PTSD; however, to return only to go on lengthier periods of UA possibly suggests a motive separate from avoidant PTSD symptoms.

The AO concluded, "Based on the available evidence, there is sufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute *all* his misconduct to PTSD." [emphasis in original]

In response to the AO, Petitioner provided additional evidence in support of his application. After reviewing the 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 partial relief.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct and request to be discharged for the GOS. The Board noted Petitioner admitted to 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 OTH discharge and no error exists with his/her 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/she 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 medical evidence. 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 concluded that the severity of his serious misconduct was outweighed by mitigation offered by his mental health condition. Therefore, purely as a matter of clemency, the Board determined the interests of justice are served by upgrading Petitioner's characterization of service to General (Under Honorable Conditions).

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The found that Petitioner's conduct showed a complete

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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 OTH 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. 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.

Based on the same rationale for denying an Honorable discharge characterization of service, the Board determined Petitioner's narrative reason for separation and assigned reentry code remains appropriate. In light of Petitioner's extensive record of misconduct and unsuitability for further military service, the Board determined the interests of justice do not support a change to his reason for separation, separation code, or reentry code. Therefore, even considering Petitioner's case holistically under reference (d), the Board determined no further equitable relief was merited. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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) indicating that, for the period ending on 23 April 1970, Petitioner's characterization of service was "General (Under Honorable Conditions)." 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.

5/22/2026

