

Department of the Navy to review discharges and status-upgrade procedures for former Service members with behavioral or mental health conditions

The Department of the Navy (“Navy”) has agreed to review the discharges of thousands of Veterans affected by post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), military sexual trauma (MST), and other behavioral or mental health conditions. The Navy has also agreed to change some of its administrative procedures for individuals who apply in the future to have their discharge statuses upgraded. This agreement follows a settlement reached in the nationwide class action lawsuit *Manker v. Del Toro*, 3:18-cv-00372-CSH. A federal court preliminarily approved the agreement on October 12, 2021.

Under the agreement, the Navy will automatically reconsider certain discharge-status-upgrade decisions made by the Naval Discharge Review Board (NDRB) between March 2, 2012, and the effective date of settlement, which partially or fully denied upgrade relief to Navy and Marine Corps Veterans of the Iraq and Afghanistan era with General or Other-than-Honorable (OTH) discharges. The settlement also expands reapplication rights for eligible applicants who were discharged and received an adverse NDRB decision between Oct. 7, 2001 and March 2, 2012.

In addition, the Navy has agreed to implement certain procedures. These include a program to enable applicants to appear before the NDRB by video teleconference, more training for board members, and updated protocols for decision making in cases involving symptoms or diagnoses of PTSD, TBI, MST or other behavioral or mental health conditions.

Veterans of the Navy and the Marine Corps, including the Reserve, who were discharged with a General or Other-than-Honorable service characterization while having a diagnosis of, or showing symptoms of, the conditions listed above may be eligible to benefit from the settlement. Discharge upgrades are not guaranteed, and applications will be decided on a case-by-case basis.

A video teleconference hearing on the settlement agreement on December 16, 2021 at 10:00 a.m will address whether to grant final approval of the settlement, whether to issue a final order dismissing the lawsuit, and related issues. Persons affected by the settlement may submit written comments and/or appear themselves or through counsel to be heard in support of, or in opposition to, aspects of the settlement. Persons wishing to object must follow specific procedures, which are outlined on the websites listed below.

A court-approved class notice, the full text of the settlement, and information about the court’s hearing can be found at <https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx>. and www.mankersettlement.com.

For more information, please contact the Yale Veterans Legal Services Clinic at manker.settlement@yale.edu or (203) 364-4588, or visit <https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx>.

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