



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

██████████  
Docket No: 7990-20  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████  
USMCR, XXX-XX ██████████

Ref: (a) 10 U.S.C. § 1552  
(b) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 with attachments  
(2) DD Form 214  
(3) ██████████ 14th Marine Division CO Memo of 19 Dec 1991  
(4) NAVMC 118 (11) Administrative Remarks  
(5) ██████████ 14th Marines CO Memo of 18 Sep 1991

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 characterization of service be upgraded to honorable.

2. The Board reviewed Petitioner's allegations of error or injustice on 12 April 2021 and, pursuant to its regulations, determined that no corrective action should be taken. As discussed below, I disagree with the Board's recommendation and believe that partial relief is warranted in the interests of justice. 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 reference (b).

3. The Board, having reviewed all of the facts of record pertaining to Petitioner's allegations of error or 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, it is in the interests of justice to review Petitioner's application on its merits.

c. Petitioner enlisted in the U.S. Marine Corps Reserve (USMCR) in 1986.  
See enclosure (2).

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- d. In July 1990, Petitioner assumed a civilian position as a Deputy Sheriff for the [REDACTED] Sheriff's Department [REDACTED]. See enclosure (1).
- e. On or about 14 January 1991, Petitioner's unit was ordered to active duty in support of Operation Desert Shield/Desert Storm. As part of this mobilization, Petitioner deployed with his unit to [REDACTED] to participate in NATO Exercise Battle Griffin from 27 February 1991 to 18 March 1991. Upon return from this exercise, Petitioner remained on active duty with his unit until it was deactivated on 22 June 1991. He then returned to a traditional reserve duty status.
- f. On 24 August 1991, Petitioner was absent from scheduled drills. Efforts to contact him via telephone were unsuccessful. By letter dated 26 August 1991, Petitioner was notified of his missed drills. See enclosure (3).
- g. By letter dated 27 August 1991, Petitioner was notified of a Competency Review Board (CRB) for his unsatisfactory participation in scheduled drills. See enclosure (3).
- h. By letter dated 9 September 1991, Petitioner was notified of his command's intent to administratively reduce him to the rank of Lance Corporal due to unsatisfactory drill participation. See enclosure (4).
- i. On 15 September 1991, Petitioner's CRB was conducted. Petitioner did not appear. The CRB administratively reduced Petitioner to the rank of Lance Corporal (from Corporal) due to his unsatisfactory participation in scheduled drills. See enclosure (3).
- j. On 13 September 1991, Petitioner was again absent from scheduled drills. Efforts to contact him via telephone were unsuccessful. See enclosure (3).
- k. On 17 September 1991, Petitioner's Battery First Sergeant contacted Petitioner about his missed drills, and put him in touch with the Battery Commander. It was agreed between them that if Petitioner made up his missing drills that the discharge proceedings would be stopped. Petitioner never made up the missed drills. See enclosure (3).
- l. By memorandum dated 18 September 1991, Petitioner was notified that he was being processed for administrative separation from the USMCR by reason of unsatisfactory participation in the selected USMCR. See enclosure (5). Petitioner did not respond to this notification. See enclosure (3).
- m. By letter dated 1 October 1991, Petitioner was notified of his command's intent to administratively reduce him to the rank of Private First Class due to unsatisfactory drill participation. See enclosure (4).
- n. On 18 October 1991, Petitioner was again absent from scheduled drills. Efforts to contact him via telephone were unsuccessful. See enclosure (3).

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o. On 21 October 1991, Petitioner was administratively reduced to the rank of Private First Class due to his unsatisfactory drill participation. See enclosure (4).

p. By letter dated 5 November 1991, Petitioner was notified of his command's intent to administratively reduce him to the rank of Private due to unsatisfactory drill participation. See enclosure (4).

q. On 8 November 1991, Petitioner was again absent from scheduled drills. Efforts to contact him via telephone were unsuccessful. See enclosure (3).

r. On 25 November 1991, Petitioner was administratively reduced to the rank of Private. See enclosure (4).

s. By memorandum dated 19 December 1991, Petitioner's commander recommended that he be administratively discharged from the USMCR under other than honorable (OTH) conditions for unsatisfactory participation. See enclosure (3).

t. On 12 March 1992, Petitioner was discharged from the USMCR under OTH conditions. See enclosure (4).

u. Petitioner contends that he had to quickly catch up in his newly assigned duties as a Deputy Sheriff upon his demobilization, which involved advanced training, mandated overtime, and other professional responsibilities, and that he therefore found it difficult to attend the scheduled drills. He also notes that he had previously served for five years in the USMCR with no disciplinary issues. Finally, he highlights his 30-year record as a Detective with the [REDACTED] working in the busiest and most dangerous of [REDACTED] patrol stations, and expresses remorse for his misguided decisions from 30 years ago.

#### BOARD CONCLUSION

After careful review and consideration of all of the evidence of record, the Board found no error or injustice warranting relief.

The Board found no error or injustice in Petitioner's discharge under OTH conditions from the USMCR for unsatisfactory participation. It is clear from the record that Petitioner's command attempted to work with Petitioner to make up the many scheduled drill sessions that he missed, but Petitioner was unresponsive to their efforts. Accordingly, the Board believed that the OTH characterization of service was appropriate under the circumstances.

The Board also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Board considered, among other factors, Petitioner's 30-year "blemish-free" career of public service with the [REDACTED], to include the recent performance evaluations that he provided that reflect his outstanding performance of duties; Petitioner's remorse for his actions that resulted in his OTH discharge; that Petitioner served in the USMCR for five years with no disciplinary actions prior to his unsatisfactory participation, rising to the rank of Corporal and receiving several accolades;

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that Petitioner mobilized to active duty with his unit in support of Operation Desert Shield/Desert Storm; Petitioner's assertion that he found it difficult to balance his USMCR duties with his newly-assigned law enforcement duties; and the passage of time since Petitioner's discharge from the USMCR. Even considering these potentially mitigating factors, the Board determined that relief is not warranted in the interests of justice. While the Board recognized Petitioner's long record of service to his community, it found that the misconduct for which Petitioner was discharged outweighed the mitigating considerations, and that relief is not warranted in the interests of justice. The Board found that Petitioner essentially abandoned his military duties, and ignored the significant efforts made by his chain of command to accommodate Petitioner's new career. Accordingly, the Board found that Petitioner's OTH characterization of service accurately describes Petitioner's service, and that no relief is therefore warranted.

#### BOARD RECOMMENDATION

In view of the above, the Board recommends that no corrective action be taken on Petitioner's naval record.

#### EXECUTIVE DIRECTOR CONCLUSION

While I agree with the Board's determination that there was no error or injustice in Petitioner's discharge under OTH conditions for unsatisfactory participation, I do believe that relief is warranted under the totality of the circumstances in the interests of justice in accordance with reference (b). Specifically, given Petitioner's long and meritorious public service as a law enforcement officer with the [REDACTED] and Petitioner's reasonable explanation for his unsatisfactory participation, I believe that relief is warranted. The mitigating factors considered by the Board, as discussed above, are, in my opinion, sufficient to warrant an upgrade of Petitioner's characterization of service to general (under honorable conditions). I do not, however, believe that these mitigating factors so significantly outweigh the misconduct for which Petitioner's was discharged to warrant an upgrade of Petitioner's characterization of service to fully honorable.

#### EXECUTIVE DIRECTOR RECOMMENDATION

In view of the above, I recommend that the following corrective action be taken on Petitioner's naval record:

That Petitioner's naval record be corrected to reflect that his service was characterized as general (under honorable conditions).

That no further corrections be made to Petitioner's naval record.

That a copy of this record 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 titled matter.

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5. The foregoing action of the Board is submitted for your review and action.

4/27/2021

[REDACTED]

Executive Director

Assistant General Counsel (Manpower and Reserve Affairs)

~~Reviewed and Approved Board Recommendation (Deny Relief)~~

Reviewed and Approved Executive Director Recommendation (General)

Reviewed and Approved Petitioner Request Approved (Honorable)

6/16/21

[REDACTED]

Assistant General Counsel (M&RA)