



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

██████████  
Docket No: 8676-20  
Ref: Signature date

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

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

- Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," 3 September 2014  
(c) PDUSD Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI," 24 February 2016  
(d) USD Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" 25 August 2017  
(e) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018

- Encl: (1) DD Form 149 with attachments  
(2) DD Form 214  
(3) NAVMC 118(9), History-Expeditions-Awards Record  
(4) NAVMC 118(12), Offenses and Punishments  
(5) NAVMC 10044, Report of Return of Absentee or Deserter, 3 Mar 70  
(6) FBI Criminal Records Check, No. ██████████  
(7) NAVMC 10044, Report of Return of Absentee or Deserter, 1 May 70  
(8) ██████████ Battalion, ██████████ Marines CO Memo 17/██████████ raw, subj: Administrative Discharge Notification and Reply Sheet, for reason of Unfitness, 1 June 1970  
(9) ██████████ Battalion, ██████████ Marines CO Memo 7/██████████/lsk, subj: Undesirable Discharge by reason of Unfitness; case of [Petitioner], 1 June 1970  
(10) ██████████ Department of Veterans Affairs Medical Center Treatment Log  
(11) BCNR Advisory Opinion, 9 June 2021

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.

Subj: REVIEW OF NAVAL RECORD OF FORMER MARINE [REDACTED],  
USMC, XXX-XX-[REDACTED]

2. The Board reviewed Petitioner's allegations of error or injustice on 28 July 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. 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 references (b) – (e).

3. The Board, having reviewed all 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 waive the statute of limitations and review Petitioner's application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty service on 1 May 1967. See enclosure (2).

d. Petitioner deployed in support of combat operations to the Republic of Vietnam from 20 October 1967 to 2 June 1968, participating in seven named combat operations. He was awarded the Vietnamese Service Medal with one star, the Vietnamese Campaign Medal with device, and the Combat Action Ribbon. See enclosure (3).

e. On 5 January 1968, Petitioner received nonjudicial punishment (NJP) for sleeping while on radio watch in violation of Article 113, Uniform Code of Military Justice (UCMJ). See enclosure (4).

f. On 24 September 1968, after his return from Vietnam, Petitioner received his second NJP for two specifications of unauthorized absence (UA) and one specification of failing to go to his appointed place of duty, in violation of Article 86, UCMJ.<sup>1</sup> See enclosure (4).

g. On 24 October 1968, Petitioner received his third NJP for two specifications of UA in violation of Article 86, UCMJ.<sup>2</sup> See enclosure (4).

h. On 13 December 1968, Petitioner received his fourth NJP for UA in violation of Article 86, UCMJ.<sup>3</sup> See enclosure (4).

i. On 15 January 1970, Petitioner commenced a period of UA from his unit. He was arrested by civilian authorities on 28 January 1970 for attempted burglary, and subsequently convicted of writing bad checks, three counts of failing to appear, two traffic violations, and petty theft. He was sentenced to one month and five days of confinement, with three years of probation. Upon his release from confinement, he was returned to military control by the civilian authorities. See enclosures (5) and (6).

---

<sup>1</sup> Both of the UAs were for periods of less than one day in duration.

<sup>2</sup> Both specifications involved UAs of approximately one hour in duration.

<sup>3</sup> This UA was approximately 2-1/2 hours in duration.



Subj: REVIEW OF NAVAL RECORD OF FORMER MARINE [REDACTED],  
USMC, XXX-XX-[REDACTED]

j. On 5 March 1970, Petitioner received his fifth NJP for the UA discussed in paragraph 3i above. See enclosure (4).

k. On 23 March 1970, Petitioner received his sixth NJP for UA and for failing to go to his appointed place of duty, both in violation of Article 86, UCMJ.<sup>4</sup> See enclosure (4).

l. On 3 April 1970, Petitioner received his seventh NJP for UA in violation of Article 86, UCMJ.<sup>5</sup> See enclosure (4).

m. On 20 April 1970, Petitioner commenced another period of UA which ended upon his apprehension by civilian authorities in [REDACTED], on 29 April 1970. See enclosure (7).

n. By memorandum dated 1 June 1970, Petitioner was notified that he was being recommended for an undesirable discharge from the Marine Corps based upon his frequent involvement of a discreditable nature with civil and military authorities. Petitioner waived his right to counsel and to have his case heard by an administrative discharge board. See enclosure (8).

o. By memorandum dated 1 June 1970, Petitioner's commander recommended to the separation authority that he be discharged from the Marine Corps for unfitness. See enclosure (9).

p. On 18 June 1970, Petitioner was discharged from the Marine Corps under OTH conditions for unfitness. See enclosure (2).

q. On 23 January 2018, Petitioner was diagnosed by a Department of Veterans Affairs (VA) mental health provider with chronic post-traumatic stress disorder (PTSD). See enclosure (10).

r. Petitioner's spouse contends that his discharge was unjust because he served honorably in the Marine Corps both before and during his deployment to [REDACTED].<sup>6</sup> While deployed in [REDACTED] he suffered a traumatic head injury in a motor vehicle accident, resulting in his hospitalization and evacuation to the [REDACTED]. Petitioner's spouse asserts her belief that his behavior upon returning from [REDACTED] was the result of PTSD, combined with his discovery upon his return that his spouse at the time was having an affair while he was deployed, which resulted in their divorce. See enclosure (1).

s. Petitioner's application and records were reviewed by a qualified mental health professional, who provided an advisory opinion (AO) for the Board's consideration. The AO revealed that Petitioner's medical records reflect that he was medically evacuated from [REDACTED] to [REDACTED] with a close fracture of his left radius from a motor vehicle accident on 30 May 1968, and that he also sustained a head injury with scalp lacerations during this accident. Later records reflect that Petitioner suffered severe headaches since his head wound, with

---

<sup>4</sup> Petitioner's UA was for approximately one day.

<sup>5</sup> This UA was also for approximately one day.

<sup>6</sup> Petitioner's spouse served as his representative, as Petitioner reportedly suffers from Alzheimer's Disease and Dementia.

Subj: REVIEW OF NAVAL RECORD OF FORMER MARINE [REDACTED],  
USMC, XXX-XX-[REDACTED]

associated anxiety and nervousness. The records also reflect that he suffered additional head injuries during an altercation in 1970, which included a possible skull fracture. The AO commented that Petitioner's post-deployment misconduct is consistent with that demonstrated by PTSD victims, with frequently seen avoidance behaviors (UA), risk-taking behaviors (traffic violations), and difficulties with concentration/attention/judgment (financial mismanagement). The AO concluded that the preponderance of direct and indirect objective evidence supports the contention that Petitioner's in-service misconduct may be mitigated by his PTSD condition, and to a lesser extent, his possible traumatic brain injury (TBI). See enclosure (11).

#### MAJORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Majority of the Board determined that full relief is warranted in the interests of justice.

Because Petitioner based his claim for relief in whole or in part upon his undiagnosed PTSD condition, the Majority reviewed his application in accordance with the guidance of references (b) – (d). Accordingly, the Majority applied liberal consideration to Petitioner's claimed PTSD condition, and the effect that it may have had upon his misconduct. In this regard, the Majority was persuaded by the AO findings, which supported the contention that Petitioner suffered from PTSD and potentially TBI as a result of his service in the Marine Corps, and that Petitioner's misconduct may be mitigated by this misconduct. The Majority noted that Petitioner's conduct and trait marking prior to this incident were favorable, and that his conduct seemed to change dramatically following this traumatic incident. Accordingly, the Majority found that most of Petitioner's misconduct was significantly mitigated, if not excused, by his PTSD condition and TBI experience.

In addition to applying liberal consideration to Petitioner's mental health condition and the effect that it may have had upon his misconduct in accordance with references (b) – (d), the Majority also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Majority considered, among other factors, that Petitioner suffered from PTSD and potentially TBI during his Marine Corps service, which mitigated the misconduct for which he was separated, as discussed above; Petitioner's extensive combat experience in Vietnam; that Petitioner was injured in a motor vehicle accident in Vietnam, and continued to suffer the effects of his PTSD and TBI condition long after his discharge from the Marine Corps; Petitioner's relative youth and immaturity at the time of his misconduct; that the traumatic event that resulted in Petitioner's evacuation from Vietnam was exacerbated by his discovery that that his spouse at the time was engaged in an extramarital affair, resulting soon thereafter in a divorce; the relatively minor and nonviolent nature of Petitioner's misconduct; and the passage of time since Petitioner's discharge. Based upon the totality of the circumstances, the Majority determined that Petitioner's characterization of service should be upgraded to fully honorable in the interests of justice. The Majority noted the distinct change in Petitioner's behavior after his traumatic incident, and determined that this change was likely attributable to his PTSD condition and/or TBI. Further, although his misconduct was extensive, the Majority found that none of Petitioner's acts of misconduct were relatively serious. Accordingly, the Majority found that the mitigating circumstances far outweighed the relatively minor misconduct for which Petitioner was separated, and that his



Subj: REVIEW OF NAVAL RECORD OF FORMER MARINE [REDACTED],  
USMC, XXX-XX [REDACTED]

characterization of service should therefore be upgraded to fully honorable in the interests of justice.

Although not specifically requested, the Majority also determined that Petitioner's narrative reason for separation and the associated entries on his DD Form 214 should be changed to minimize the potential for negative inferences being drawn from Petitioner's service in the future.

#### MAJORITY RECOMMENDATION:

In view of the above, the Majority of 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 DD Form 214 reflecting that his service was characterized as "Honorable"; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MARCORSEPMAN 6214"; and that his separation code was "JFF1."

That Petitioner be issued an Honorable Discharge certificate.

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on Petitioner's naval record.

#### MINORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Minority of the Board determined that partial relief is warranted in the interests of justice.

The Minority also applied liberal consideration to Petitioner's mental health condition(s) and the effect that they may have had upon his misconduct in accordance with references (b) – (d), and considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Minority concurred with the Majority that there is sufficient evidence that Petitioner suffered from PTSD and/or TBI during his Marine Corps service, and that much of the misconduct for which Petitioner was discharged may be mitigated by these conditions. However, the Minority disagreed with the Majority that full relief is warranted given the totality of the circumstances. In reaching this conclusion, the Minority noted that some of the civilian charges for which Petitioner was convicted (i.e., writing bad checks, petty theft) were not the type of offenses which may be attributable to Petitioner's mental health conditions, and found that Petitioner's pattern of misconduct was so extensive and significant that such extraordinary relief was not warranted. The Minority certainly believed that the circumstances warranted some relief and that Petitioner should not continue to endure the stigma of his OTH characterization of service, but also found that the volume and nature of Petitioner's misconduct offset the mitigating circumstances to some extent. Accordingly, the Minority determined that Petitioner's characterization of service should be upgraded only to general (under honorable conditions) in the interests of justice.

Subj: REVIEW OF NAVAL RECORD OF FORMER MARINE [REDACTED],  
USMC, XXX-XX-[REDACTED]

Although not finding an upgrade of Petitioner's characterization of service to fully honorable to be warranted under the totality of the circumstances, the Minority concurred with the Majority determination that Petitioner's narrative reason for separation and associated entries in his DD Form 214 should be changed in the interests of justice to minimize the potential for future negative inferences from Petitioner's service in the Marine Corps.

MINORITY RECOMMENDATION:

In view of the above, the Minority of 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 DD Form 214 reflecting that his service was characterized as "General (Under Honorable Conditions)"; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MARCORSEPMAN 6214"; and that his separation code was "JFF1."

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on 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.
5. The foregoing action of the Board is submitted for your review and action.

8/27/2021

[REDACTED]

Executive Director

[REDACTED]



Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
USMC, XXX-XX [REDACTED]

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

MAJORITY Recommendation Approved (Full Relief – Upgrade to Honorable; Change Narrative Reason for Separation and Associated Entries on DD Form 214)

~~MINORITY Recommendation Approve (Partial Relief – Upgrade to General (under honorable conditions); Change Narrative Reason for Separation and Associated Entries on DD Form 214)~~

~~Board Recommendation Disapproved (Deny Relief – Relief is not warranted given the totality of the circumstances, particularly the nature and frequency of Petitioner’s misconduct)~~

10/31/2021

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]