



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

█  
Docket No: 0831-21

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552  
(b) USD memo of 25 Jul 2018 "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 w/attachments  
(2) Case summary

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 record be corrected by changing his narrative reason for discharge from "fraudulent entry into military service" to either "convenience of the government" or to "general (under honorable conditions)." As set forth below, the Board recommended granting a different form of relief, finding that the requested relief was not appropriate..

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 23 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 Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies and reference (b), the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Petitioner enlisted in the Marine Corps and commenced a period of active duty on 22 February 2005. On 22 March 2005, the Petitioner received a medical evaluation after experiencing shortness of breath while exercising. The medical records are difficult to discern,

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and they appear to state conflicting information, such as that Petitioner states he had “no prior dx [diagnosis] for asthma,” but also that, “SXS [symptoms] began two months ago prior to entering service.” The medical department recommended that the Petitioner be separated, and the Petitioner received a “drop counseling form” on 25 March 2005, which stated that the Petitioner is recommended for an entry-level separation for convenience of the government, and that the Petitioner claimed that his condition was not pre-existing. That same day, the Petitioner’s commanding officer recommended that the Petitioner be discharged for “discharged for ELS med fraud vice COG [convenience of the government] due to his failure to disclose preexisting breathing problems.” On 1 April 2005, the Petitioner was discharged with an entry level separation due to fraudulent enlistment.

c. The Petitioner contends that he did not provide a deliberate material misrepresentation during his enlistment because he had no medical history of asthma. He states that he took and passed the initial strength test and obstacle courses without incident. The Petitioner further states that he maintains a desire to serve and is looking to apply to become a police officer but his current discharge narrative precludes him from being able to fulfill that goal. The Petitioner has submitted recent medical records with a finding of lack of pulmonary obstruction or breathing impairment.

#### CONCLUSION

Upon review and consideration of all the evidence of record, and in view of reference (b), the Board determined that there exists an error or injustice warranting relief. Specifically, the Board found that, applying the factors set forth in the Wilkie Memo, as well as applying liberal consideration, that the Petitioner should be granted clemency. The Board is sympathetic to the fact that Petitioner seeks a career in law enforcement and that his fraudulent entry into military service narrative reason for separation may negatively impact his ability to obtain his chosen career. Accordingly, as a matter of clemency, the Board determined that granting relief in the form of changing the Petitioner’s narrative reason and authority for separation to Secretarial Authority is appropriate.

Accordingly, based on a careful review of all of the facts presented, the Board concludes that Petitioner is entitled to relief as follows.

#### RECOMMENDATION

In view of the above, the Board directs the following corrective action:

Petitioner be issued a new DD Form 214 indicating that his discharge at separation was an uncharacterized entry level separation, narrative reason Secretarial Plenary Authority, MARCORSEPMAN 6412 separation authority, JFF1 SPD code.

That no further changes be made to Petitioner’s record.

A copy of this report of proceedings shall be filed in Petitioner’s naval record.

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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-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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

8/5/2021

[REDACTED]

Executive Director

Signed by [REDACTED]