



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

█
Docket No: 3037-21
Ref: Signature Date

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

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

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

Ref: (a) 10 U.S.C. §1552
(b) USECDEF 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) 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 other than honorable (OTH) discharge be upgraded to honorable character of service.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 26 May 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, to include 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 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 regulations within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

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

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 26 June 1981. On or about March 1983 and May 1983, Petitioner received non-judicial punishment. Petitioner's offenses were unauthorized absence on two occasions and failure to obey a lawful order.

d. On 2 June 1983, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps because of misconduct due to a pattern of misconduct. Petitioner was advised of, and elected his procedural right to consult with military counsel. After consulting with counsel, Petitioner chose not to exercise his right to present his case to an administrative discharge board. Petitioner's commanding officer recommended administrative discharge from the naval service with an other than honorable (OTH) characterization of service. The separation authority approved the recommendation and directed Petitioner's administrative discharge from the naval service with an OTH characterization of service by reason of misconduct. On 29 June 1983, Petitioner was so discharged.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that given the totality of his circumstances, Petitioner's request merits partial relief. Additionally, the Board reviewed Petitioner's application under the guidance provided in reference (b). Specifically, the Board considered whether his application was the type that was intended to be covered by this policy.

In this regard, the Board noted that Petitioner's characterization was unduly harsh given the type of misconduct involved. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize Petitioner's service as OTH. The Board concluded after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, that the discharge characterization should be changed to "general (under honorable conditions)."

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 29 June 1983, Petitioner was discharged with a "general (under honorable conditions) characterization of service.

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

That a copy of this report 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 entitled matter.

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

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.

6/7/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]