



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

[REDACTED]
Docket No: 4406-21

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USD Memo of 25 Aug 17 (Kurta Memo)
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with enclosures
(2) Advisory opinion of 26 Nov 21

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with this Board requesting his General characterization of service be changed and review the authority and narrative reason for his discharge on his Certificate of Release of Discharge from Active Duty (DD Form 214), due to Post-Traumatic Stress Disorder (PTSD).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 February 2022, and pursuant to its regulations, determined that the partial corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, applicable statutes, regulations, policies, to include references (b) through (e). Additionally, the Board also considered enclosure (2), an advisory opinion (AO) furnished by a qualified mental health provider.

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. Petitioner enlisted in the Marine Corps and began a period of active duty on 8 April 1974.

c. On 25 October 1974, Petitioner received nonjudicial punishment (NJP) for wrongful possession of marijuana.

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d. On 2 June 1975, medical personnel diagnosed Petitioner with an Inadequate Personality Disorder.

e. On 19 August 1975, Petitioner received NJP for two days of unauthorized absence (UA).

f. On 20 August 1975, Petitioner was counseled regarding his substandard conduct and warned that future involvement with military authorities could result in administrative discharge action.

g. During the period from 22 September 1975 to 14 June 1976, Petitioner received four NJPs for being absent from appointed place of duty, wrongfully reporting for duty, as security watch, without boots, cover, or duty belt, using disrespectful words, assaulting another Marine, two days of UA, destruction of government property, and being absent from his appoint place of duty.

h. On 9 August 1976, Petitioner was convicted b special court-martial (SPCM) of four specifications of being absent from appointed place of duty, and disobeying a lawful order. He was sentenced to confinement at hard labor, a forfeiture of pay, and a reduction in paygrade.

i. On 10 November 1976, Petitioner received NJP for one day of UA, being absent from his appointed place of duty, and disobeying a lawful order.

j. On 29 December 1976, Petitioner was convicted by summary court-martial (SCM) of being absent from appointed place of duty.

k. On 28 June and 9 August 1977, Petitioner received NJP for failure to obey a written order, failure to obey an order, UA from morning muster, disobeying a lawful order, and assaulting another Marine by unlawfully striking him in the mouth with his fist.

l. On 29 August 1977, Petitioner was notified of administrative discharge action by reason of a Character and behavior disorder. Additionally, his case was forwarded to the separation authority recommending he be discharged from the Marine Corps due to unsuitability stating that Petitioner "should have been discharge a long time ago" and that Petitioner, through his own admission, had abused amphetamines to the point of toxicity, and had taken LSD, mescaline and was hospitalized because of his abuse.

m. On 19 September 1977, the separation authority directed that Petitioner be discharged from the Marine Corps due to unsuitability.

n. On 27 September 1977, Petitioner was discharged from the Marine Corps with General characterization of service.

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o. With his application, Petitioner states he was discharge under medical mental reasons due to confinement abuse, and that he has PTSD because of his service. As a result, an advisory opinion was requested from a mental health professional and enclosure (2) was provided. Enclosure (2), states that based on the current available evidence, there is insufficient evidence that the Petitioner incurred PTSD or another unfitting mental health condition during military service, and there is insufficient evidence that his misconduct could be attributed to PTSD or another unfitting mental health condition.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants partial relief. Specifically, the Board concluded that Petitioner's DD Form 214 should be changed to read that the narrative reason for his discharge was "Secretarial Authority" to eliminate the possibilities of any stigma associated with his mental health related discharge.

Despite this finding, the Board concluded that no additional relief was warranted. The Board reviewed Petitioner's application under the guidance provided in references (b) through (e) but concluded, despite liberal consideration, that the preponderance of the evidence did not support an upgrade to his characterization of service. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. After weighing the evidence, the Board determined that Petitioner's record misconduct resulting in nine NJPs, SCM, and conviction by SPCM was too numerous and serious to merit an Honorable characterization of service. While the Board took into consideration Petitioner's personality disorder, in making this finding, the Board concurred with the AO that there is insufficient evidence that the Petitioner incurred PTSD or another unfitting mental health condition during military service. Further, the Board found insufficient evidence that his misconduct could be attributed to PTSD or another unfitting mental health condition.

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

RECOMMENDATION

Petitioner be issued a new DD Form 214, showing that on 27 September 1977, the narrative reason for separation was "Secretarial Authority," separation authority was "MARCORSEPMAN 6214," and separation code was "JFF1."

That no further action be granted.

A copy of this Report of Proceedings 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 Regulation, 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.

2/11/2022

[REDACTED]

Executive Director
Signed by: [REDACTED]