



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

█  
Docket No: 4520-21

Ref: Signature Date

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) character of service be upgraded.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 29 September 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 reference (b).

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.

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 4 October 1994.

d. On 14 January 1997, Petitioner received non-judicial punishment (NJP) for failure to go to his appointed place of duty, false official statement, failure to obey a lawful written order, and wrongful use of marijuana. On 22 January 1997, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps. The available records



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indicate Petitioner exercised his right to consult with military counsel. After consulting with military counsel, Petitioner waived his right to appear before an administrative discharge board (ADB).

e. On 5 February 1997, Petitioner received a substance abuse evaluation. The evaluation determined Petitioner's cannabis use did not meet the criteria for dependence or pattern of abuse.

f. Petitioner's commanding officer (CO) then forwarded his administrative separation package to the separation authority (SA) recommending that Petitioner be administratively discharged from the Marine Corps with an other than honorable (OTH) characterization of service.

g. The SA approved the CO's recommendation and directed that Petitioner be administratively discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to drug abuse. On 28 March 1997, Petitioner was so discharged.

h. Petitioner contends that: 1) his OTH discharge was too harsh for what he did; 2) his military record has accolades that reflect the good and honorable service he performed; 3) he admits that he did not use the best judgement as a lonely young man when he used marijuana, however, it should not have resulted in a lifelong punishment; and 4) he has been punished for over 20 years despite his outstanding performance for which he accomplished. In support of his petition, Petitioner has submitted letters from several individuals, including: (a) the former G3 Plans Officer of [REDACTED] who served with Petitioner while on active duty; (b) a former Army Sergeant First Class who is familiar with Petitioner's character and degree of integrity, responsibility and ambition; and (c) the Chairman of the Veterans Committee of Petitioner's Union, the [REDACTED]. Each has endorsed the Petition, and expressed a great deal of support for an upgrade to Petitioner's discharge.

#### 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 Petitioner's disciplinary infraction and does not condone his misconduct, which subsequently resulted in his OTH characterization of service. However, in light of reference (b), after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, the Board concluded Petitioner's 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:

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That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 28 March 1997, Petitioner was discharged with a “general (under honorable conditions)” character 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.

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.

10/18/2021

[REDACTED]

Executive Director

Signed by [REDACTED]