

Docket No: 4706-21 Ref: Signature Date

- From: Chairman, Board for Correction of Naval Records
- To: Commandant of the Marine Corps
- Subj: REVIEW NAVAL RECORD OF
- Ref: (a) 10 U.S.C. 1552
- Encl: (1) DD Form 149 with attachments (2) Case summary (3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting a change to his naval record, specifically, to change his "Other Than Honorable (OTH)" discharge to "Honorable" and correct his Home of Record (HOR) on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board reviewed Petitioner's allegations of error and injustice on 6 October 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 waive the statute limitation and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 28 October 1976. On 27 December 1977, he received non-judicial punishment (NJP) for disobeying a lawful order. On 2 January 1978, he went into an unauthorized absence (UA) status and remained until 18 February 1978 totaling 47 days. On 27 March 1978, he submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for being in a UA status for 47 days. Prior to submitting this request, he conferred with a qualified military lawyer, at which time he was advised of his rights and warned of the probable adverse consequences of accepting such a discharge.

His request was granted and his commanding officer (CO) was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, he was spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 5 May 1978, he was discharged.

## CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial favorable action. The Board noted that upon Petitioner's discharge from the Marine Corps, he received a DD Form 214, which reflected the incorrect Home of Record. With that being said, the Board concludes that Petitioner's HOR " was incorrect and should be changed to "The Board denied" Petitioner's request to upgrade his discharge to "Honorable" due to his misconduct and request for a GOS discharge. In accordance with the foregoing, the Board concluded that the record should be corrected by the issuance of a correction to the DD Form 214 (DD Form 215), and that Petitioner should be issued the same.

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

## **RECOMMENDATION:**

That Petitioner's naval record shall be corrected by changing the Home of Record to and that a DD Form 215, which reflects these corrections, be filed in his official military personnel record.

That Petitioner be issued a DD Form 215, which reflects a corrected Home of Record as

That no further changes be made to the 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 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.

	10/17/2021
Executive Director	

Sincerely,