



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

██████████  
Docket No: 4712-21  
1195-19  
4336-17  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, ██████████, USMC, ██████████

Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo of 3 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 6 Dec 21

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 naval record be corrected to reflect an honorable characterization of service, that his narrative reason be changed to "Completion of Required Active Service" or "Secretarial Authority" in the alternative, that the corresponding separation codes are upgraded, that his reentry code reflect RE-1, and that his OMPF is corrected to reflect service on the USS Dubuque starting 31 May 1988.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 29 December 2021, and pursuant to its regulations, determined 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 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board considered the 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:

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USMC, [REDACTED]

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 and entered a period of active duty in the Marine Corps on 30 January 1988 at the age of 19. He served as an aircraft maintenance administration clerk with the military occupation specialty code of 6046.

c. Petitioner was attached for temporary additional duty (TAD) to [REDACTED] on 14 May 1988.

d. Petitioner provided medical records indicating he was treated for a medical issue in the medical department of the [REDACTED] on 4, 6, and 20 June 1988.

e. On 11 June 1988 Petitioner crossed the equator aboard the [REDACTED].

f. On 4 November 1988 Petitioner received nonjudicial punishment (NJP) for insubordinate conduct towards a Sergeant by saying "I'm going to kick your butt" and punching him in the mouth in violation of Articles 91 and 128, Uniform Code of Military Justice (UCMJ).

g. On 20 December 1990 Petitioner received a second NJP for drunk and disorderly in his quarters and for using provoking words and gestures towards five Marines in violation of Articles 134 and 117, UCMJ.

h. Petitioner's third NJP occurred on 11 March 1991 for a one day period of unauthorized absence in violation of Article 86, USMJ.

i. On 2 September 1992 Petitioner received a fourth NJP for a 299 day period of UA in violation of Article 86, UCMJ.

j. On 15 September 1992 Petitioner was notified of administrative separation processing by reason of misconduct due to commission of a serious offense. He consulted with counsel and waived a hearing before an administrative discharge board.

k. Petitioner was discharged on 6 November 1992 with an other than honorable characterization of service.

l. Petitioner contends he experienced three traumatic incidents while onboard the [REDACTED] that led to him developing PTSD and that all of his misconduct was directly related to his trauma and accurately understood as a manifestation of PTSD symptoms. He states he coped with the incidents by drinking alcohol. Petitioner contends he witnessed the first event on 9 June 1988. He states that he witnessed the death and drowning of Vietnamese refugees whom the ship abandoned. He states approximately 100 refugees were adrift in a small boat. He states some were dead, some jumped in the water thinking the ship would rescue them, and some drowned. Petitioner states he was ordered to shake the ropes to keep any refugees from boarding. Petitioner contends he experienced the second traumatic event on 8 October 1990

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when a helicopter crashed killing eight Marines who were his close friends, to include Petitioner's former roommate. Petitioner contends he experienced the third traumatic event when his Commanding Officer and a junior Officer were killed in a helicopter crash during night training at [REDACTED]. He states he saw the fireball and was ordered to search the site where he retrieved parts stained with blood and human tissue. He further contends clemency is warranted based on his post-service conduct.

m. In July 1991 Petitioner was evaluated and recommended for Level II and III alcohol rehabilitation treatment. Petitioner entered a period of UA and did not receive treatment.

n. On 30 April 2018 Petitioner was diagnosed by the Department of Veterans Affairs with direct service connected PTSD.

o. On 2 July 2021 Petitioner was diagnosed by a civilian licensed psychologist with PTSD severe; Major Depressive Disorder recurrent and severe; and Alcohol dependence, in sustained remission.

p. In support of his application, Petitioner provided multiple documents to include historical records corroborating the first event and medical records to indicate he was onboard the [REDACTED] at the time of the refugee incident. He provided a document and two character references corroborating his contentions regarding the second event, and a newspaper article regarding the third event. Petitioner further noted in his legal brief that since discharge he became sober in 1992, has a family, earned a Bachelor of Science and Master of Business Administration degrees, and had a successful career as a consultant and analyst.

q. Petitioner was denied relief by this Board on 3 November 2018 and 30 June 2020.

r. As part of the Board's review, a qualified mental health provider reviewed Petitioner's assertions and available records and provided an AO dated 6 December 2021. The AO noted that the documentation, unavailable to the authors of the previous AOs (i.e., medical notes from the [REDACTED] dated prior to the encounter with the refugees), support the contention Petitioner was onboard the [REDACTED] when it encountered the Vietnamese refugees. The AO further noted that it is reasonable to attribute Petitioner's misconduct to alcohol use disorder and the alcohol use disorder was exacerbated by emerging PTSD symptoms. Consequently, the AO concluded there is sufficient evidence Petitioner exhibited behaviors associated with PTSD during his military service and his misconduct may be mitigated by his PTSD.

#### CONCLUSION:

The Board reviewed Petitioner's application under the guidance provided in references (b) through (e). Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief and that his characterization of service should be corrected to reflect honorable. The Board, applying liberal consideration and relying on the AO, determined there was sufficient evidence to support a finding that Petitioner suffered from a mental health condition while in-service and that the condition was exacerbated by alcohol abuse. The Board further determined that the first incident occurred prior to Petitioner's

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misconduct and the second and third incidents occurred prior to additional NJPs. Accordingly, the Board found that a nexus existed between the incidents experienced by Petitioner and his misconduct and that the experiences mitigated and outweighed the discharge. In particular, the Board noted that documentation in Petitioner's service record and new evidence provided by the Petitioner indicated he was onboard the [REDACTED] at the time of the first incident. That incident was well documented and Petitioner provided photographs of the event he asserts he personally took. The Board also found that Petitioner's detailed account of the events, statements from fellow Marines aware of the incidents at the time they occurred, and extensive psychological assessment lent credibility to Petitioner's contentions. The report states "there is a direct causal link and nexus between the traumas that [Petitioner] experienced during his military service, the PTSD and Major Depressive Disorder he incurred as a result of these traumas, and the misconduct leading to his discharge." In addition to applying liberal consideration to Petitioner's mental health condition and the effect that it may have had upon his conduct, the Board also considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, Petitioner's post-service conduct, the well documented account of the events; the VA and civilian detailed reports describing Petitioner's traumatic incidents; relative youth and immaturity at the time of his misconduct; and the passage of time of 29 years since Petitioner's discharge. Furthermore, in the interests of justice and in light of the potential for future negative implications, the Board determined Petitioner's narrative reason for separation, separation authority, and separation code should be changed to "Secretarial Authority," and that his reentry code should reflect "RE-1A."

Based on review of Petitioner's service record, the Board noted that his chronological record reflects he was attached "TAD CMAGTF [REDACTED] on 14 May 1988 and that his combat history reflects that he was attached to the USS Dubuque as part of CMAGTF [REDACTED] during the ship's deployment in support of Operation [REDACTED]. Accordingly, the Board found that the dates Petitioner served on the [REDACTED] are documented in his service record and his request to correct the dates he served onboard ship to 31 May 1988 is denied.

#### RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 reflecting that his service was characterized as "Honorable," that the narrative reason for his separation was "Secretarial Authority," that his separation authority was "MARCORSEPMAN 6214," that his separation code was "JFF1," and that Petitioner's reentry code was "RE-1A."

That no further corrective action should be taken.

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.

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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.

1/24/2022

[REDACTED]

[REDACTED]