



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

[REDACTED]
Docket No: 4823-21

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USMC,
[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD"
(c) PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI"
(d) PDUSD Memo of 25 Aug 17 "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault or Sexual Harassment"
(e) 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 w/enls
(2) Advisory opinion of 26 May 21

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with this Board requesting his under honorable conditions discharge be upgraded to honorable due to mental health condition suffered while on active duty. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 November 2021, and pursuant to its regulations, determined that the 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) and (c). Additionally, the Board also considered the advisory opinion (AO) furnished by a qualified mental health provider, which was previously provided to Petitioner.

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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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 27 November 1987.

c. On 4 October 1988, Petitioner received nonjudicial punishment (NJP) for violating a written order of barracks regulation by not adhering to room inspection guidelines and failing inspections. He was counseled concerning his deficiencies of failure to obey lawful orders and regulations, failure to complete required school assignments, and not conforming to Marine Corps grooming standards.

d. On 17 November 1988, Petitioner received NJP for failing to obey a lawful order by failing to shave for inspection.

e. On 19 December 1988, Petitioner was counseled concerning deficiency of diagnosed, severe Personality Disorder, with prominent histrionic passive-aggressive and borderline features.

f. On 6 April 1989, the President, Physical Evaluation Board Notification of Decision found Petitioner to be physically unfit to perform his duties because of a physical condition that existed prior to his entry onto active duty. At that time, Petitioner was not eligible to receive disability benefits. Also, in April 1989, Petitioner was counseled regarding being assigned and RE-3P reentry code for being discharged due to a physical disability.

g. On 28 April 1989, Petitioner was discharged from the Marine Corps with a general characterization of service.

h. Petitioner's original service record was incomplete and did not contain all the documentation pertaining to his separation from the Marine Corps. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

i. With his application, Petitioner contended he had an undiagnosed mental condition, and was misdiagnosed in-service with having a personality disorder, and that years after he left the Marine Corps, he was diagnosed with Autism Spectrum Disorder. He states that the Department of Veterans Affairs (DVA) acknowledged his condition was aggravated by his service in the Marine Corps, and awarded him 100% disability. He believes he was given a "General" discharge because of his performance, but at the time, he did not know he suffered from Autism, and was not given adequate treatment and care. He provided copies of his military record, mental evaluations and award letter from the DVA.

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j. Enclosure (2), states that There was sufficient evidence that Petitioner's condition of Autism Spectrum Disorder, pre-existing but not diagnosed at the time of his military service, likely contributed to his in-service misconduct, and could be considered as mitigation for his in-service misconduct.

k. Petitioner's request was fully and carefully considered by the Board in light of the Secretary of Defense's Memorandum, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requested by Veterans Claiming Post Traumatic Stress Disorder" of 3 September 2014 and the "Clarifying Guidance to Military Discharge Review Board and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" memorandum of 25 August 2017.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) intended to be covered by this policy.

In this regard, the Board noted Petitioner's minor misconduct, and does not condone his actions. However, based upon Petitioner's overall record, in light of enclosure (2), and given our current understanding of mental health conditions, relief in the form of his characterization of service be changed to "Honorable."

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

RECOMMENDATION

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), showing that on 28 April 1989, he received an honorable discharge.

That no further action be granted.

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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[REDACTED]

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.

11/29/2021

[REDACTED]

Executive Director

[REDACTED]