



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

[REDACTED]
Docket No: 6109-21

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
XXX-XX-[REDACTED] 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)
(f) ALMAR 246/81

Encl: (1) DD Form 149 w/ enclosures

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 discharge be upgraded to reflect honorable service. Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 10 December 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, applicable statutes, regulations, and policies, to include references (b) through (e).

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 and began a period of active duty on 15 July 1980. His average performance and conduct marks prior to his misconduct were 4.5 and 4.45 respectively.

c. On 25 February 1982, Petitioner received nonjudicial punishment (NJP) for an Article 92 orders violation for having an unregistered pocket knife in his barracks room and for Article 112a for possession of drug paraphernalia with trace amounts of marijuana and use of marijuana.

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

His drug lab results from a 12 March 1982 urinalysis were positive for an unspecified amount of marijuana metabolites.

d. On 1 June 1982, Petitioner completed a treatment and education program through a command drug abuse course, required under reference (f), ALMAR 246/81.

e. The results of Petitioner's urinalysis were not reported until 8 June 1982 after his completion of the command program. As a result of his positive urinalysis results, Petitioner was directed on 14 June 1982 to complete an illegal drug use suitability review as required by reference (f). His division officer assessed Petitioner as unsuitable based on Petitioner's NJP and subsequent positive urinalysis.

f. On 15 June 1982, the Head of Social Counseling endorsed that Petitioner had demonstrated improved attitude and performance since completing the command program and, noting the timing between Petitioner's previous offense and the effective date of the ALMAR, recommended that Petitioner should only be processed for administrative separation in the event of subsequent illegal drug involvement.

g. Petitioner's battalion commanding officer informed him of the determination that he did not have further potential for effective service and would be processed for separation.

h. On 2 July 1982, Petitioner's commanding officer signed Petitioner's notification of proposed discharge action for misconduct due to illegal drug use; this notification contained no specification regarding characterization of service.

i. On 20 July 1982, Petitioner received a second NJP for Article 112a for the wrongful drug use which resulted in his positive urinalysis results from his 12 March 1982 drug test. His command subsequently provided him an administrative counseling and retention warning on 10 August 1982 stating the potential for discharge in the event of future illegal drug use.

j. On 31 August 1982, Petitioner acknowledged his rights; he requested to consult counsel and to submit a statement.

k. On 2 September 1982, Petitioner's commanding officer provided him with another acknowledgment of rights which included that Petitioner "may receive a general discharge." Petitioner acknowledged his rights after consulting with counsel.

l. Following legal review of the administrative separation package on 6 October 1982, Petitioner was discharged with a characterization of General (Under Honorable Conditions) was approved on 12 October 1982, and he was discharged on 22 October 1982.

m. Approximately 2 years after his discharge, Petitioner submitted a request to Headquarters Marine Corps expressing remorse for his short-lived mistake, documenting his post-service employment efforts, and seeking to upgrade his discharge characterization and reenlistment code.

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

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) through (e) intended to be covered by this policy.

In this regard, the Board noted Petitioner's misconduct and does not condone his actions. However, based upon Petitioner's service record and the matters presented for consideration, the Board found that the totality of evidence weighed in favor of the requested relief. The Board noted the nature of Petitioner's misconduct, his relative youth at the time of that misconduct, his in-service rehabilitative efforts, the temporal policy guidance of reference (f) regarding his misconduct, rehabilitative efforts and lack of further misconduct, as well as the timing of the command actions taken over the course of his misconduct and administrative separation processing, to include the retention recommendation from the Head of Social Counseling. The Board also noted that Petitioner's post-discharge letter expressed genuine remorse. As such, the Board found that it is in the interest of justice and fundamental fairness to grant the requested relief.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 22 October 1982, he was discharged with an "Honorable" character of service, "MARCORSEPMAN Par. 6214" separation authority, "Secretary of the Navy Plenary Authority" narrative reason for separation, separation code "JFF1," and reentry code "RE-1A".

That Petitioner be issued an honorable discharge certificate.

That no further changes be made to Petitioner's record.

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.

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

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.

1/11/2022

[REDACTED]
Executive Director
[REDACTED]