



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

█
Docket No: 6211-21

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █ █
█ 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 characterization of service be upgraded to "honorable."

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 2 February 2022 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 28 May 1976.

d. On 31 October 1978, Petitioner received non-judicial punishment (NJP). The specifics of the charges and specifications were not available. On 28 January 1980, Petitioner was convicted by a special court-martial (SPCM) of an unauthorized absence that totaled 98 days. As punishment, Petitioner was sentenced to be confined, forfeiture of pay and reduction in rank. On

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

5 November 1980, Petitioner was again convicted by SPCM of an unauthorized absence that totaled 10 days. As punishment, Petitioner was sentenced to be confined and forfeiture of pay.

e. On 17 December 1980, at the expiration of Petitioner's active service, he was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that annotated his characterization of service as "under other than honorable conditions." On 10 April 1998, Petitioner was issued a DD Form 215 that noted Petitioner's DD Form 214 issued on 17 December 1980 showing his character of service as "under honorable conditions (General)" is hereby cancelled as its effective date and has been superseded. Petitioner's DD Form 214 presently reflects his characterization of service as "under other than honorable conditions."

f. Petitioner contends that he made up all of his lost time that was held over from his original discharge date.

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 infractions and does not condone his misconduct. In reviewing Petitioner's record, the Board noted that his documented misconduct consisted of unauthorized absences for which he received appropriate punishment. In addition, the Board noted no aggravating circumstances in relation to Petitioner's misconduct. Accordingly, 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 of service 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:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 17 December 1980, Petitioner was discharged with a "general (under honorable conditions)" characterization of service.

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 FORMER [REDACTED] [REDACTED]
[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 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.

2/14/2022

[REDACTED]

Executive Director

[REDACTED]