



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

█
Docket No: 6402-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █, XXX XX █,
USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," of 3 September 2014
(c) PDUSD memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI," of 24 February 2016
(d) PDUSD memo, "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," of 25 August 2017
(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 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 naval record be corrected to reflect an upgraded characterization of service to "honorable."

2. The Board consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 19 January 2022 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 references (b) through (e). Additionally, the Board also 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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- 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 18 April 1988.
- c. During the period from 23 August 1988 to 2 July 1991, Petitioner received five instances of non-judicial punishment (NJP). His offenses were failure to obey a lawful written order, violation of a lawful general regulation by not having his M16A2 Rifle on his possession, dereliction in the performance of duty by failing to keep a continuous 360 degree watch at all times while on post on three occasions, failure to remain alert while being posted as a sentry at post 31 and 43 by not challenging, false official statement, unauthorized absence, absence from his appointed place of duty, and breaking restriction.
- d. On 10 July 1991, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. Petitioner was advised of, and exercised, his procedural right to consult with and to be represented by military counsel, and to present his case to an administrative discharge board (ADB). On 29 August 1991, an ADB was convened and determined that the preponderance of the evidence supported a finding of misconduct due to pattern of misconduct and recommended Petitioner's administrative separation from the Marine Corps with an other than honorable (OTH) characterization of service. Petitioner's commanding officer recommended administrative discharge from the Marine Corps with an OTH characterization of service. The separation authority approved the recommendation and directed Petitioner's administrative discharge from the Marine Corps with an OTH characterization of service by reason of misconduct due to pattern of misconduct. On 24 October 1991, Petitioner was discharged.
- e. Petitioner contends that his record should be corrected due to the fact that he has been found to be disabled due to a service connected disability and he has been enduring this disability for thirty years.
- f. Petitioner's application and records were reviewed by a qualified mental health professional, who provided an advisory opinion (AO) for the Board's consideration. The AO noted that Petitioner's OMPF did not contain evidence of a diagnosis of a mental health condition. Records did show an increase in misconduct and alcohol use following his Desert Shield/Storm deployment. Post-discharge evidence submitted by Petitioner supported service-connected disabilities. Petitioner indicated a trauma occurred while in [REDACTED] and upon his return his alcohol consumption increased to daily. Petitioner's misconduct is a typical maladaptive coping skill service members resort to who have experienced a trauma. The AO concluded by opining that there is sufficient evidence Petitioner exhibited behaviors associated with a mental health condition during his military service and some of his misconduct may be mitigated by his mental health condition.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. The Board reviewed Petitioner's application under the guidance

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provided in references (b) through (e).

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, which mitigated but did not excuse Petitioner's misconduct that subsequently resulted in his other than honorable characterization of service discharge. In this regard, the Board concluded Petitioner's characterization of service shall be changed to "General (under honorable conditions)."

Additionally, in the interest of justice and in light of the potential for future negative implications, the Board further determined that Petitioner's separation authority shall be changed to "MARCORSEPMAN 6214," SPD code changed to "JFF1," and narrative reason for separation changed to "Determination of Service Secretary – Secretary of the Navy Plenary Authority."

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 24 October 1991, Petitioner was discharged with a "General (under honorable conditions)" characterization of service, separation authority was "MARCORSEPMAN 6214," SPD code was "JFF1," and narrative reason for separation was "Determination of Service Secretary – Secretary of the Navy Plenary Authority."

No further action be granted.

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.

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.

2/3/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]