



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

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Docket No: 6915-21
Ref: Signature Date

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

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

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”

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)
(4) Advisory Opinion dated 26 Nov 2021

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps filed enclosure (1) with this Board requesting that his other than honorable (OTH) characterization of service be changed in light of current guidelines as reflected in references (b) and (d). Enclosures (2) through (4) apply.

2. The Board 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 the Kurta Memo, *the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel 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 also considered the advisory opinion (AO) dated 26 November 2021, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, Petitioner did not do so.

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 waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 7 July 1967. On 28 June 1968, Petitioner went into an unauthorized absence (UA) status for 12 days. During the period from 16 August to 3 October 1968, Petitioner received two non-judicial punishments (NJP) for five specifications of UA totaling 14 days. On 18 February 1969, Petitioner requested a good of the service (GOS) discharge in lieu of trial by court-martial due to two specifications of UA totaling 46 days. On 19 February 1969, Petitioner's commanding officer (CO) recommended Petitioner's request be approved. On 25 February 1969, Petitioner's CO recommended he receive an other than honorable (OTH) characterization of service. On 3 March 1969, the Staff Judge Advocate (SJA) recommended Petitioner's request be approved and he receive a general under honorable conditions characterization of service. On 3 March 1969, Petitioner went into a UA status. On 5 March 1969, the separation authority (SA) approved Petitioner's request and directed a general under honorable conditions characterization of service. On 5 March 1969, Petitioner was apprehended by civil authorities and charged with committing a Dyer Act. On 25 March 1969, all civil charges were dropped. On 15 April 1969, Petitioner was discharge with an OTH characterization of service for the GOS in lieu of trial by court-martial.

d. Petitioner contends his UA was related to embarrassment and attempts to prevent infidelity of his wife while he was recovering from injuries sustained during combat. He also raised the issue of Post-Traumatic Stress Disorder (PTSD) as mitigation evidence. As a result, an advisory opinion as requested from a mental health professional. Enclosure (4) was provided in response and opined that that Petitioner likely incurred PTSD during his military service but insufficient evidence exists to attribute his misconduct to the PTSD or another mental health condition.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. While the Board noted Petitioner's misconduct and does not condone his actions, it concluded his PTSD condition sufficiently mitigated his misconduct to merit relief. Specifically, under the guidance provided in references (b) and (c), the Board determined the mitigation evidence outweighed the severity of his misconduct. Accordingly, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been other than honorable, and re-characterization to a general discharge is now more appropriate. Based on this finding, the Board also determined that Petitioner's narrative reasoning for separation and reenlistment code should also be changed. In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

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USMC

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that on 15 April 1969, his characterization of service was "General under Honorable Conditions", narrative reason for separation was "Secretarial Plenary Authority", reenlistment code was "RE-1", and his separation authority was "MARCORPSEPMAN, Par 6214".

That no further changes be made to the record.

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.

2/9/2022

[REDACTED]
Executive Director
[REDACTED]