



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

[REDACTED]
Docket No. 7381-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/enclosures
(2) DD Form 214
(3) NJP of 5 Dec 1986
(4) NJP of 25 Mar 1987
(5) Administrative Remarks Counseling of 13 Jun 1988 and 3 Aug 1988
(6) NJP of 20 Sep 1988 and 17 Oct 1988
(7) Special Court Martial of 12 Dec 1988
(8) NJP of 16 Mar 1989
(9) Notice of Separation Proceedings
(10) Administrative Separation Proceedings of 7 Apr 1989
(11) Discharge Authority of 7 Apr 1989

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 by upgrading his characterization of service to general (under honorable condition).

2. The Board reviewed Petitioner's allegations of error and injustice on 20 December 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, 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 or 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 interests of justice to review Petitioner's application on its merits.

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c. Petitioner enlisted in the Marine Corps and began a period of active duty on 12 February 1986. See enclosure (2).

d. On 24 November 1986, Petitioner began a period of unauthorized absence (UA) which lasted approximately 7 hours and received non-judicial punishment (NJP) on 5 December 1986. See enclosure (3).

e. On 11 March 1987, Petitioner began a period of UA which lasted approximately 1 hour and received NJP on 25 March 1987. See enclosure (4).

f. On 13 June 1988, Petitioner was counseled for poor attention to details in the performance of his duties, lack of initiative, and accountability, and lack of concern for being at appointed place of duty. Petitioner was advised that failure to take corrective action could result in administrative separation. See enclosure (5).

g. On 3 August 1988, Petitioner was counseled for lackadaisical attitude and detached mannerism towards his daily duty assignments, physical fitness, haphazard excuses for tardiness, lack of good grooming standards, and constant implication of not being understood. Petitioner was advised that failure to take corrective action could result in administrative separation. See enclosure (5).

h. On 19 August 1988, Petitioner was UA from appointed place of duty and received NJP on 20 September 1988. See enclosure (6).

i. On 30 September 1988, Petitioner began a period of UA which lasted 3 days and received NJP on 17 October 1988. See enclosure (6).

j. On 12 December 1988, Petitioner was convicted by special court martial for UA, disrespect, dereliction of duty, and wrongful use of provoking words. Petitioner was reduced to the rank of E-1, forfeiture of pay, and confinement. See enclosure (7).

k. On 17 February 1989 and 22 February 1989, Petitioner was UA from appointed place of duty and received NJP on 16 March 1989. See enclosure (8).

l. Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at which point, he waived his rights to an administrative discharge board. See enclosure (9).

m. On 7 April 1989, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. See enclosure (10).

n. On 7 April 1989, the discharge authority directed that Petitioner be administratively discharged from the Marine Corps under other than honorable conditions by reason of misconduct due to pattern of misconduct. See enclosure (11).

o. On 2 May 1989, Petitioner was discharged. See enclosure (2).

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BOARD MAJORITY CONCLUSION

The Board majority, in its review of Petitioner's entire record and application, carefully weighed all potentially mitigating factors and determined that Petitioner's request warrants relief.

The Board majority carefully considered whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b). These factors included, but were not limited to, Petitioner's desire to upgrade his discharge, his contentions since his discharge, and character letters submitted with his petition. The Board majority noted that they do not condone Petitioner's misconduct, however, in light of reference (b) they believed that the Petitioner's was young and naïve and no useful purpose is served by continuing to characterize Petitioner's service as other than honorable. The Board majority recommended that Petitioner's record be changed to general (under honorable conditions).

BOARD MAJORITY RECOMMENDATION

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

Petitioner be issued a new DD Form 214 indicating his characterization of service as "general" (under honorable conditions).

A copy of this report of proceedings be filed in Petitioner's naval record.

No further action be granted.

BOARD MINORITY CONCLUSION

The Board minority, in its review of Petitioner's entire record and application, carefully weighed all potentially mitigating factors and determined that Petitioner's request does not warrant relief.

The Board minority carefully considered whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b). However, notwithstanding the Board majority's conclusion, the Board minority believed to the contrary, Petitioner's repeated misconduct resulting in numerous UA periods, five NJPs, a special court martial, and a number of misconduct counseling entries supports the other than honorable discharge received. Thus, the Board minority did not find any conceivable reason to change Petitioner's characterization of service.

BOARD MINORITY RECOMMENDATION

In view of the above, the Board minority recommends that Petitioner's request be denied.

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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5. The foregoing action of the Board is submitted for your review and action.

1/21/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Minority Recommendation (Denied Relief)

Reviewed and Approved Majority Recommendation (Grant Relief)

1/31/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by [REDACTED]