



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

[REDACTED]
Docket No: 945-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED] [REDACTED]
[REDACTED] 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 w/enclosures

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with this Board requesting former [REDACTED] Clemency Discharge be changed to "Honorable" and that his narrative reason for discharge be changed to "Secretarial Authority" on his Report of Transfer or Discharge (DD Form 214). He also impliedly requested that the separation authority be changed. Enclosure (1) applies.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 March 2022, and pursuant to its regulations, determined that the partial corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, applicable statutes, regulations, policies.

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 Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider his/her case on its merits.

c. Former [REDACTED] [REDACTED] enlisted in the Marine Corps and began a period of active duty on 27 February 1968.

d. On 5 August 1968, he arrived in [REDACTED]

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

e. During the period from 10 August 1968 to 29 January 1969, he participated in five operations against insurgent communist forces. He earned the [REDACTED] Cross of Gallantry with Palm and Frame; Combat Action Ribbon; [REDACTED] Service Medal with Campaign Star; and the National Defense Service Ribbon.

f. During the period from 29 January 1969 to 3 September 1969, he had two periods of unauthorized absence (UA) totaling 201 days.

g. On 16 September 1969, he received nonjudicial punishment for unknown offense(s).

h. On 16 October 1969, he was convicted by special court-martial (SPCM) of two specifications of UA totaling 201 days, being disrespectful in language, and violating a general order by having a magazine in his weapon and a round in the chamber in the Enlisted Club. He was sentenced to a period of confinement at hard labor, a forfeiture of pay, a reduction in paygrade, and a bad conduct discharge (BCD).

i. Former [REDACTED] [REDACTED] received his BCD on 12 June 1970.

j. On 4 November 1975, he was granted a Clemency discharge.

k. On 10 November 1975, the Department of Justice informed him he had been granted a Clemency discharge for his UA offenses.

l. On 18 February 1976, he was issued DD Form 1553, in recognition of satisfactory completion of alternate service pursuant to Presidential Proclamation 4313. Discharges awarded under this program do not bestow entitlement to benefits administered by the Department of Veterans' Affairs (DVA).

m. With his application, Petitioner states [REDACTED] [REDACTED] should not have received a punitive or OTH discharge because of cognitive limitations at the time of his service. As part of his clemency review in 1970, a clinical psychologist found he was of "borderline defective intelligence who has difficulty in verbalizing his difficulties but manage to make his point clear." Further, because of his educational and intellectual limitations, is was really amazing that he had advance as high as an E-3. In fact, he opined that he should never had been recruited. It was recommend he receive a general discharge. In addition to the his cognitive issues, he was also suffering from depression when he made the decision to go UA. When his MOS changed from Mortar Man to Infantry, he could not adjust to becoming a "grunt." In March 1977, he was diagnosed with Adenocarcinoma of the left lung, state 3B and anemia, secondary to hemoptysis. He underwent various cancer treatments in the following months but, unfortunately, passed away on 2 September 1997 at the age of 49. [REDACTED] [REDACTED] family seeks for him to be recognized as a veteran that sacrificed his health and well-being for his country during the [REDACTED] War.

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

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants partial favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) and determined that in accordance with the Wilkie memo, [REDACTED] case warrants relief as a matter of clemency.

In this regard, the Board noted his misconduct, does not condone his actions, and not willing to upgrade his characterization of service to honorable. However, based upon his overall record, to include his [REDACTED] service, relief in the form of his characterization of service should be changed from a Clemency discharge to an "affirming" General (under honorable conditions) discharge, and that his narrative reason for discharge should read "Secretarial Authority."

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

RECOMMENDATION

The family of former [REDACTED] be issued a new DD Form 214 and a Certificate, showing that on 12 June 1970, he received a General (under honorable conditions) discharge.

That the narrative reason for separation was "Secretarial Authority" and the separation authority was "MARCORSEPMAN 6214."

That no further action be granted.

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.

3/23/2022

[REDACTED]

Executive Director

[REDACTED]