



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

██████████
Docket No: 1233-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
██████████ XXX XX ██████████ USMCR

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

Encl: (1) DD Form 149 with attachments

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 Honorable characterization of service, narrative reason for separation as Secretarial Authority with the appropriate three letter code separator, reenlistment code as RE-1, and that he be issued a DD Form 215.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 29 July 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

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 interests of justice to review Petitioner's application on its merits.

c. Petitioner enlisted in the Marine Corps Reserve and entered a period of active duty from 12 January 1993 to 17 July 1993. He was released from initial active duty training and served honorably.

d. Petitioner remained in the Reserve and served without incident until June 1997.

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e. On 11 June 1997, Petitioner received an administrative remark in his service record noting that a letter of unsatisfactory participation in the Selected Marine Corps Reserve (SMCR) was mailed to his primary address for drills missed on 7 and 8 June 1997.

f. On 6 August 1997, a certified return receipt letter was mailed to Petitioner.

g. On 10 September 1997, Petitioner received an administrative remark in his service record noting that a letter of unsatisfactory participation in the SMCR was mailed to his primary address for drills missed from 4 September 1997 to 7 September 1997.

h. On 20 January 1998 Petitioner was notified of administrative separation processing by reason of unsatisfactory participation for drills missed on 7 and 8 June 1997; 4 September 1997 to 7 September 1997; and 6 and 7 December 1997. The letter was from the Commanding Officer, Marine Aircraft Group [REDACTED].

i. An affidavit of service, dated 21 January 1998, indicates the command mailed the letter of notification and statement of awareness by certified mail, return receipt requested to Petitioner's primary address. The command did not receive acknowledgment of service from Petitioner.

j. On 18 February 1998, the Commanding Officer recommended Petitioner be discharged with an other than honorable (OTH) characterization of service and stated "[Petitioner] has not made any attempt to make up his unexcused absences nor has he contacted this command regarding any problems he may be having. [Petitioner] has not displayed any potential for mobilization or further service...."

k. Petitioner attended drill weekend at his Reserve unit on 7 and 8 March 1998.

l. On 8 March 1998, Petitioner was interviewed by the Career Planner and his Commanding Officer, a Major, who recommended Petitioner for reenlistment. The summary of interview stated, "SNM plans to get out at EAS. Civilian job requirements make it difficult to attend drills. A good, knowledgeable NCO."

m. On 16 March 1998, the Separation Authority directed Petitioner be discharged with an OTH characterization of service.

n. Petitioner was so discharged on 3 April 1998.

o. Petitioner contends his discharge was procedurally and substantively defective, unfair at the time, and inequitable now. He states he was discharged for being reported as in an unauthorized absence status during a drill weekend but has proof that he was present. He states he met with the career planner in March 1998 and there was no mention of unsatisfactory drill performance or an OTH discharge. He contends he attended the April 1998 drill weekend and there was no administrative discharge board, mention of unsatisfactory drill performance, or OTH discharge. He states he was notified of his OTH discharge when he reported to the May 1998 drill weekend and was told a certified letter was delivered to his home. He contends he did not receive the notification until the post office found the letter at the end of May, and the letter

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was not certified and had the wrong address. He contends he had over five years of honorable service until his discharge.

CONCLUSION:

In accordance with reference (b), the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice. Upon careful review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief and that his service record should indicate that he was discharged from the Marine Corps Reserve with a General (Under Honorable Conditions) characterization of service.

In its deliberations, the Board determined that Petitioner did miss the drills noted by the command; however found that there did appear to be miscommunication between the Inspector Instructor staff, responsible for support of the Reserve units, and Petitioner's Reserve chain of command. In particular, the Board noted that Petitioner was notified of administrative separation processing via letter from the Commanding Officer, Marine Aircraft Group [REDACTED] mailed on 21 January 1998; yet Petitioner was recommended for reenlistment and commended by a Major, presumably his Reserve Commanding Officer, several weeks later on 8 March 1998. Although the Board found there was more likely than not a miscommunication regarding Petitioner's notification, the Board also determined that Petitioner was aware of his drill requirements, having been a drilling Reservist for over five years, and therefore should have contacted his command regarding his periods of missed drills in a timely manner. The Board further noted that Petitioner provided an exhibit, pertaining to drills he contends he missed but were excused; however, the Board found that Petitioner addressed some drill dates that were not in dispute. For these reasons, the Board did not find that granting full relief was warranted. Based on the unreconciled chronology of events and the records available for review, the Board determined an injustice had occurred and grants partial relief to the Petitioner.

Notwithstanding the recommended correction action below, the Board determined Petitioner's narrative reason for separation, separate code, separation authority, and reentry code remain appropriate based on his documented missed drills. The Board determined that any injustice in Petitioner's record was sufficiently addressed by upgrading his characterization of service to General (Under Honorable Conditions).

RECOMMENDATION:

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

That Petitioner's service record be corrected to reflect, for the period ending 3 April 1998, that he was discharged from the Marine Reserve with a General (Under Honorable Conditions) characterization of service.

That no further corrective action should be taken.

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

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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.

9/12/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]