



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

█
Docket No: 2495-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
█ USMC

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Case summary
(3) Naval record (excerpts)

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 discharge characterization be upgraded to Honorable on his U.S. Marine Corps Report of Separation (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 2 May 2022, 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 his naval service records, and applicable statutes, regulations, and 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 enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. On 22 August 1945, Petitioner enlisted in the Marine Corps and chose to answer "NO" when asked if he was convicted of a crime. On 22 September 1945, he began a period of active duty service.

d. On 4 December 1945, a Federal Bureau of Investigations record documented Petitioner was arrested by civil authorities for grand theft on 13 August 1944.

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e. On 8 January 1946, Petitioner was arrested by civil authorities and charged with disorderly conduct. Non-judicial punishment was imposed on him for the incident on 11 January 1946.

f. On 20 February 1946, Petitioner was psychiatrically evaluated and determined to possess limited intellectual endowment, little sense of social responsibility, and poor motivation.

g. Petitioner submitted a sworn statement admitting being charged with grand theft, confined for five days after the arrest, and released to the custody of his father. He also admitted to failing to disclose his arrest.

h. On 21 February 1946, the Petitioner's commanding officer recommended an undesirable discharge characterization of service by reason of fraudulent enlistment as evidence of his arrest for grand theft.

i. On 12 April 1946, the discharge authority approved and ordered that Petitioner be discharged from the Marine Corps with an undesirable characterization of service due to fraudulent enlistment. On the same date, he was discharged.

j. On 7 August 1951, the Board of Review, Discharges and Dismissals (BRDD) reviewed the Petitioner's request for a discharge upgrade and granted relief in the form of upgrading his characterization of service to "General" by reason of convenience of the government.

k. On 13 May 1953, the Board for Correction of Naval Records (Board) granted the removal of mark of "fraudulent enlistment" on the Petitioner's records.

l. On 5 August 1953, Petitioner was issued a Correction to Report of Separation from the Armed Forces of the United States (DD Form 215) reflecting a change to his discharge characterization of service from "Undesirable" to "Under Honorable Conditions" and the removal of "fraudulent enlistment."

m. Petitioner feels his General discharge should be corrected to reflect Honorable. He argues he wanted to make a career in the Marine Corps and felt he was forced out of the Corps due to a misunderstanding. He is now 95 years of age, and his son is taking care of him. He has been upset since he cannot help his son by getting USAA home insurance, which will help them to lower the household cost. He was always under the impression that he had an Honorable discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board determined Petitioner's request warrants partial relief. The Board noted Petitioner's DD Form 214 does not reflect the previously approved changes. Therefore, the Board recommends that Petitioner be issued a new DD Form 214.

Regarding Petitioner's request to be upgraded to an Honorable characterization of service, the Board determined insufficient evidence of error or injustice exists to merit relief. The Board

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noted Petitioner failed to provide sufficient evidence to support of his contention that he was forced out of the Marine Corps. The Board was not persuaded by Petitioner's desire to qualify for USAA membership in order to assist his son. Further, the Board considered the fact Petitioner was previously upgraded from an Undesirable discharge to a General (Under Honorable Conditions). Based on the mitigation of his previous characterization of service by the BRDD and the lack of new evidence to support an upgrade, the Board concluded his currently assigned discharge characterization remains appropriate.

RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 reflecting his discharge on 12 April 1946 was with a characterization of "General (Under Honorable Conditions)" with a narrative reason for separation as "Convenience of the Government."

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.

5/17/2022

[REDACTED]

Executive Director

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