



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

██████████
Docket No: 5208-22

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
(b) SECDEF 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/attachments
(2) Case summary

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 record be corrected by upgrading his discharge characterization to Honorable.

2. The Board, consisting of ██████████ and ██████████, reviewed Petitioner's allegations of error and injustice on 12 August 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, and reference (b), 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 the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. 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 the case on its merits.

b. The Petitioner enlisted in the Marine Corps and commenced active duty on 25 May 1961. He served without incident until 14 February 1962, when he received nonjudicial punishment (NJP) for disobeying a lawful order. On 26 March 1962, Petitioner received a summary court martial (SCM) for UA and disobeying a lawful order. From the period beginning on 11 January

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[REDACTED] USMC

1963 through 11 October 1963, Petitioner received NJP on three occasions for three specifications of unauthorized absence (UA) and disobeying a lawful order. On 21 November 1963, Petitioner received a second summary court martial (SCM) conviction for a UA totaling 6 hours. Petitioner received two additional NJPs for UA prior to his discharge from the Marine Corps on 23 July 1965. Petitioner was transferred to the Marine Corps Reserve with a General (Under Honorable Conditions) characterization of service.

c. Petitioner previously applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 19 August 1977, after concluding his discharge was proper as issued.

d. Petitioner contends, in part, he joined the Marine Corps at a young age, was immature, and made mistakes as a result of his youth. For clemency purposes, Petitioner provided a copy of his Bachelor's Degree and a retirement flyer reflecting 31 years of service with the [REDACTED] Department of Human Services.

CONCLUSION

Upon review and consideration of all the evidence of record, and in view of reference (b) and purely as a matter of clemency, the Board determined that there exists an injustice warranting relief.

Specifically, the Board determined Petitioner's characterization of service merits an upgrade based on his positive post service conduct. In making this clemency determination, the Board considered each instance of Petitioner's misconduct and concluded they were minor in nature, did not include any aggravating factors such as violence or drugs, and primarily involved unauthorized absences. As a result, the Board determined Petitioner's positive post service conduct outweighed the minor misconduct he committed. In light of clemency factors set forth in reference (b), the Board voted to upgrade the Petitioner's discharge characterization to Honorable.

RECOMMENDATION

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), to indicate an Honorable character of service.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall 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.

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[REDACTED] USMC

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 Regulations 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

9/7/2022

[REDACTED]

Executive Director

[REDACTED]