



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

█
Docket No: 5324-22
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER █, █
█ 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 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting a change to his naval record, specifically, to upgrade his "General (Under Honorable Conditions)" Characterization of Service on his Certificate of Release or Discharge from Active Duty (DD Form 214). It was implied that he was also requesting associated changes to his narrative reason for separation, separation authority, SPD code, and reentry code. Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 31 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, 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 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 waive the statute limitation and review the application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 30 June 1967.

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

d. On 11 February 1970, Petitioner received non-judicial punishment (NJP) for wrongful use of marijuana. Subsequently, he was notified of pending administrative separation action by reason of unfitness due to drug abuse. Petitioner elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The Petitioner's commanding officer (CO) recommended an Other Than Honorable (OTH) by reason of unfitness due to drug abuse. The ADB recommended Petitioner be retained in the Marine Corps and returned to duty due to his outstanding service record. The Staff Judge Advocate (SJA) concurred with the ADB's recommendation. However, the separation authority (SA) disagreed with the ADB's and directed a General (Under Honorable Conditions) characterization of service by reason of unfitness due to drug abuse. On 13 July 1970, Petitioner was discharged.

e. Petitioner contends he was discharged with a general discharge without cause and his record does not contain any derogatory information.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request merits partial relief. The Board notes Petitioner's disciplinary infraction and does not condone his misconduct. However, the Board concluded that Petitioner's record of service supports the recommended relief in his case. Specifically, the Board considered Petitioner outstanding service record and weighed it against the single drug related NJP. As a result, the Board concluded, purely as a matter of clemency, it was appropriate to change Petitioner's Narrative Reason for Separation to "Secretarial Authority" with associated changes to his SPD code and separation authority. Despite this determination, the Board concluded Petitioner's reentry code remains appropriate based on his unsuitability for further military service.

Further, notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the Marine's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct outweighed the positive aspects of his military record and that a General (Under Honorable Conditions) discharge characterization, and no higher, was appropriate.

In view of the foregoing, the Board finds in favor of clemency warranting the following corrective action:

RECOMMENDATION:

That Petitioner's naval record is corrected to show that, for the period ending 13 July 1970, his Narrative Reason for Separation as "Convenience of the Government – When directed by the Secretary of the Navy," the separation code was "JFF1," and the separation authority was "MARCORPERSMAN Para 6012.1F."

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

That Petitioner is issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

That no further changes be made to the 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.

9/11/2022

