



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

█  
Docket No. 7118-22

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 █ USMC

Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149 with 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 naval record be corrected to change his characterization of service from Other Than Honorable (OTH) to Honorable (HON).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 13 February 2023, 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.

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 the application on its merits.

c. The Petitioner enlisted in the Marine Corps and began a period of active service on 17 February 1987.

d. On 18 March 1988, Petitioner was found guilty at non-judicial punishment (NJP) of violating Uniform Code of Military Justice (UCMJ) Article 134, for drunk and disorderly conduct, and Article 92, failure to obey an order by not sitting down and being quiet as ordered. Petitioner did not appeal this NJP.

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

e. On 11 April 1988, Petitioner was found guilty at his second NJP for violating UCMJ Article 86, for unauthorized absence (UA) from unit for a period of 3 hours. Petitioner did not appeal this NJP.

f. On 14 November 1988, Petitioner was found guilty at his third NJP for violating UCMJ Article 92, two specifications of failing to obey an order, by wearing an earring and not maintaining a haircut that was in standards, and Article 86, for absence from his appointed duty, to wit: a working party for the supply department. Petitioner did not appeal this NJP.

g. On 31 August 1988, the Medical Board at Naval Hospital, [REDACTED], recommended that Petitioner's medical file be referred to the Office of Naval Disability Evaluation (CPEB). Petitioner acknowledged this recommendation and did not make a statement. Petitioner was previously injured during basic training, in April 1987, when he fell on a mountain during a training exercise. He was evaluated by the Orthopedic Clinic at Naval Hospital [REDACTED], [REDACTED]. Diagnosed with "Midfoot Sprain, Chronic."

h. On 28 October 1988, the CPEB determined that Petitioner was unsuitable for service due to his disability, assigned a 10% disability rating, and directed separation due to disability with severance pay.

i. On 20 January 1989, Petitioner was separated from the Marine Corps due to "Physical disability with severance pay" (separation code JFL1) and assigned an RE-3P reenlistment code. His discharge characterization was "Under Other than Honorable Conditions" (OTH).

j. On 31 May 1989, the Department of Veterans Affairs (VA) provided a letter which stated "The Marine Corps has now informed us that your DD Form 214 is wrong and that your discharge on January 20, 1989 was under honorable conditions. Therefore, no decision regarding your character of discharge is necessary. We will process your claim for compensation as soon as possible."

k. In his claim for relief, Petitioner explains that he was separated by the CPEB due to a physical disability and that the OTH characterization was issued in error on his DD 214.

## CONCLUSION

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. After thorough review of the service record, it is clear that the Petitioner was separated through the medical disability process (CPEB) rather than through the disciplinary process. There is nothing in the record to support the assignment of an OTH characterization of service. The Board also relied on the letter from the VA that acknowledged the error regarding characterization on the DD 214. In determining the appropriate characterization in this case, the Board relied on Petitioner's final trait averages for proficiency (PRO) and conduct (CON). Petitioner's trait average was PRO 4.4 and CON 4.3, which per governing regulations at the time of his separation, warrants an Honorable characterization of

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

service. While the Board noted that Petitioner has three NJPs in his record, they felt that the misconduct was minor and did not support a lesser characterization of a General (under Honorable conditions) (GEN) discharge. The Board concluded that the quality of Petitioner's service generally met the standard of acceptable conduct and performance expected of a Marine, and therefore, that an Honorable characterization is appropriate in this case.

Review of the record indicated that Petitioner's narrative reason for separation, separation code, and reenlistment code were proper and in compliance with all Department of the Navy and Marine Core directives and policies at the time of his discharge. As such, the Board only recommended a change to Petitioner's characterization of service.

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) that shows that on 20 January 1989, his characterization of service was "Honorable".

That no further changes be made to the record.

That 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 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/21/2023

