



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

█
Docket No: 7150-22

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 naval record be corrected by upgrading his discharge characterization from under Other Than Honorable (OTH) conditions to General (Under Honorable Conditions) (GEN).

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 5 December 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. Petitioner enlisted in the Marine Corps and began a period of active duty on 10 November 1987. From a period beginning on 18 April 1989 to 24 October 1989, Petitioner was counseled in three occasions for the following offenses: lack of good judgment, constant infractions with

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military authorities, failure to maintain financial responsibilities, and substantial performance. Petitioner was advised that failure to take corrective action could result in administrative separation. On 31 January 1990, Petitioner received nonjudicial punishment (NJP) for a period of unauthorized absence. From a period beginning on 8 February 1990 to 13 February 1990, Petitioner was counseled for the following offenses: personality disorder, inability to handle stress, and unsatisfactory performance. Petitioner was advised that failure to take corrective action could result in administrative separation. On 30 March 1990, Petitioner received a second NJP for violating an order by having a female guest in the barracks after duty hours, and for being disrespectful in language. On 17 June 1990, Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions, at which point, he decided to waive his procedural rights. On the same date, the Petitioner's commanding officer recommended an OTH discharge characterization of service by reason of misconduct due to minor disciplinary infractions. On 19 June 1990, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. On 21 June 1990, the separation authority approved and ordered that Petitioner be administratively separated from the Marine Corps with an OTH discharge characterization by reason of misconduct due to minor disciplinary infractions. On 8 July 1990, Petitioner was so discharged.

c. Petitioner contends he was a troubled young man while in the military and asserts that he was the only child away from home and it was very stressful for him. Since his discharge, Petitioner provided evidence that he has become a better person, who takes full responsibility for his actions while serving in the Marine Corps. Petitioner has become the father of two autistic-special needs sons who have taught him patience, compassion, and humility. He is also a business owner and an outstanding citizen who is focused on learning and bettering himself.

CONCLUSION

Upon review and consideration of all the evidence of record, and in view of reference (b), the Board determined that there exists an injustice warranting relief. The Board determined that a General (Under Honorable Conditions) characterization of service is appropriate given the level of misconduct for which the Petitioner was processed for, and in light of clemency and equity factors set forth in reference (b). In making this finding, the Board considered the relatively minor nature of Petitioner's misconduct and his post-discharge accomplishments and good character.

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 and/or performance outweighed the positive aspects of his military record even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate.

Additionally, the Board also concluded that Petitioner's narrative reason for separation, separation code, and reentry code also remain appropriate in light of his record of misconduct.

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The Board determined any injustice in Petitioner's record is sufficiently addressed through the recommended corrective action.

RECOMMENDATION

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

That Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) indicating a General (Under Honorable Conditions) discharge characterization 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.

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.

12/29/2022

[REDACTED]

Exdcutive Director

[REDACTED]