



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

█
Docket No. 8574-22

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) 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 (Wilkie Memo)

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 upgrade his characterization of service and make other conforming changes to his DD Form 214 following his discharge for a character and behavior disorder.

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 1 March 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, 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 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 1 April 1969. Between 3 October 1969 and 10 September 1970, Petitioner participated in multiple combat operations against hostile forces in █. For his service in █, Petitioner was awarded the █ Service Medal, the Combat Action Ribbon, and the █ Campaign Medal.

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d. On 16 November 1970, Petitioner received non-judicial punishment (NJP) for an unauthorized absence (UA) lasting three days. Petitioner did not appeal his NJP. On 18 November 1970 Petitioner received NJP for failing to go to a Company formation. Petitioner did not appeal his NJP. On 19 November 1970, Petitioner received a "Page 11" counseling sheet (Page 11). The Page 11 informed Petitioner that any further disciplinary action may result in an undesirable discharge.

e. On 27 December 1970, Petitioner commenced a period of UA that terminated after two days on 29 December 1970. On 12 April 1971, Petitioner commenced another UA that terminated after sixteen days, on 28 April 1971, with his surrender to military authorities in [REDACTED].

f. On 1 July 1971, Petitioner was convicted at a Summary Court-Martial (SCM) for his sixteen-day UA. Petitioner was sentenced to restriction for twenty days, forfeitures of pay, and a reduction in rank to paygrade E-2. On 6 July 1971, the Convening Authority approved the SCM sentence.

g. On 12 July 1971, the Petitioner was notified that he was being processed for an administrative discharge by reason of unsuitability due to a character and behavior disorder. The Petitioner waived his right to submit a written statement on his own behalf for inclusion in his permanent record. In the interim, on 22 July 1971, Petitioner underwent a psychiatric evaluation. The Regimental Surgeon (RS) diagnosed Petitioner with an immature personality, severe, that existed prior to entry into the service. The RS recommended Petitioner's administrative discharge.

h. On 11 September 1971, the Separation Authority approved and directed Petitioner's discharge for unsuitability due to a character and behavior disorder with a General (Under Honorable Conditions) (GEN) characterization of service. Ultimately, on 17 September 1971, the Petitioner was discharged from the Marine Corps with a GEN characterization of service. The Board noted that the separation reason and authority was "264-Par 6016.1c MARCORSEPMAN," which corresponded with "Unsuitability-Character and Behavior Disorders." The Petitioner did not receive any assigned reentry/reenlistment code in block 15 of his DD Form 214 MC and such block was left blank.

i. The Marine Corps Separation and Retirement Manual (MARCORSEPMAN) recommends that the characterization of service for a personality disorder separation is Honorable, unless a GEN is warranted under the circumstances.

j. In short, Petitioner contended that his DD Form 214 MC was erroneous and that he should have received an Honorable discharge instead of a GEN. The Petitioner also contended that his DD Form 214 in block 22c failed to account for any of his foreign service and must be corrected.

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CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief.

The Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictated a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes were warranted to the DD Form 214.

In keeping with the letter and spirit Wilkie Memo, Board took notice of Petitioner's exemplary combat record in [REDACTED] lasting approximately eleven months. Although the Board did not condone the Petitioner's misconduct, the Board noted that flawless service is not required for an Honorable discharge. The Board further noted that all of Petitioner's UAs occurred after his combat tour in [REDACTED], were minor offenses and short in duration, and did not constitute willful and persistent misconduct. The Board also took notice that the relevant MARCORSEPMAN provisions stated Petitioner's characterization should be Honorable under the circumstances, unless a GEN was warranted. With that being determined, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been under GEN conditions. Especially in light of the Wilkie Memo, the Board concluded after reviewing the record holistically, and given the totality of the circumstances that a discharge upgrade is appropriate at this time.

The Board also concluded that block 22.c. of Petitioner's DD Form 214 MC is erroneous in that it failed to account for any of Petitioner's foreign service during his active duty service. Accordingly, the Board concluded that a correction is warranted to reflect Petitioner's cumulative foreign service.

RECOMMENDATION:

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

That Petitioner's character of service be changed to "Honorable."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty reflecting he was discharged from the U.S. Marine Corps on 17 September 1971 with an "Honorable" characterization of service, along with a narrative reason for separation of "Secretarial Authority," and corresponding separation authority and separation/SPD code entries for Secretarial Authority.

Petitioner shall be issued a new Honorable Discharge Certificate.

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That Headquarters Marine Corps is directed review Petitioner's service record to properly account for and accurately reflect his foreign service on his new DD Form 214.

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.

3/16/2023

[REDACTED]
Executive Director
[REDACTED]