



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

██████████
Docket No. 0476-23

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
(b) USECDEF Memo of 25 Jul 18 (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 his record be corrected to upgrade the character of his service to honorable. Enclosure (2) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 31 March 2023, and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, 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 review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 18 September 1979. Petitioner was convicted at a summary court martial (SCM) for failure to obey a lawful order and assault. From the period beginning on 14 November 1980 to 8 March 1981, Petitioner was notified of his non-recommendation for promotion due to his misconduct. Petitioner subsequently received non-judicial punishment (NJP), on 10 April 1981, for failure to report to his appointed place of duty at the prescribed time. He received his second SCM conviction, on 18 December 1981, for failure to obey a lawful order. On 3 April 1982, Petitioner was recommended for separation due to misconduct by reason of frequent involvement. On 27 April 1982, Petitioner was discharged with

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an Other Than Honorable (OTH) character of service by reason of misconduct due to frequent involvement.

d. Petitioner contends it has been 43 years since his discharge and he would like to change his discharge to Honorable.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. Specifically, in light of reference (b), the Board determined Petitioner's characterization of service should be upgraded to Under Honorable Conditions (General).

The Board does not condone Petitioner's misconduct, however, it determined the majority of his misconduct was minor in nature and did not support his assigned characterization of service. Therefore, purely as a matter of clemency and equity, the Board determined partial relief was appropriate.

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, and that an Under Honorable Conditions (General) character of service and no higher was appropriate. Further, the Board also concluded Petitioner's narrative reason for separation, separation code, and reentry code remain supported by Petitioner's record of misconduct.

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

RECOMMENDATION:

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 27 April 1982, he was discharged with an "Under Honorable Conditions" character of service.

That no further changes be made to Petitioner's 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.

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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.

4/19/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]