



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

█
Docket No. 972-23
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER █
XXX XX █

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 Characterization of Service on his Certificate of Release or Discharge from Active Duty (DD Form 214). It is implied that he is requesting associated changes to his narrative reason for separation, separation authority, separation code (SPD), and reentry code. Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 17 April 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, 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.

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c. Petitioner enlisted in the Marine Corps on 11 June 1990. During the period from 17 December 1991 and 26 December 1991, Petitioner received two warning counseling on his failure to go to appointed place of duty and personal appearance. On 30 January 1992, he received non-judicial punishment (NJP) for four specifications of disrespect in language to a non-commissioned officer (NCO). On 7 February 1992, Petitioner was counseled on his frequent involvement with military authorities. On 2 March 1992, he received NJP for disobeying a lawful order. On 6 March 1992, Petitioner received a medical evaluation and was diagnosed with a personality disorder, not otherwise specified, that existed prior to enlistment. On 13 March 1992, he received a warning counseling on disobeying a lawful order from the Company First Sergeant and failure to go to appointed place of duty.

d. Subsequently, Petitioner was notified of pending administrative separation action by reason of misconduct due to minor infractions. After electing to waive his rights, his commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of misconduct due to minor infractions with an Other Than Honorable (OTH) characterization of service. On 15 May 1992, he received an additional NJP for 17 specifications of writing worthless checks with intent to defraud. After the SA approved the CO's recommendation, on 10 June 1992, he was so discharged.

e. Petitioner contends 25 years has passed since his discharge and he has worked as a Navy contractor since 2008 receiving several awards and accolades. He also contends he need Department of Veterans Affairs (DVA) benefits in order to receive assistance with his autistic son. For the purpose of clemency and equity consideration, the Board noted Petitioner provided multiple character and advocacy letters that described his post-discharge accomplishments.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request merits relief. Specifically, in light of reference (b), after reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be upgraded to General (Under Honorable Conditions). The Board notes Petitioner's disciplinary infractions and does not condone his misconduct. However, the Board considered Petitioner's post-discharge accomplishments and his contributions to society. As a result, they determined it was in the interests of justice to grant his request for an upgrade based on the mitigation evidence he provided. Further, the Board determined it was also in the interests of justice to change Petitioner's Narrative Reason for Separation to Secretarial Authority with associated changes to his SPD code, Separation Authority, and Reenlistment code.

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 member'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 a General (Under Honorable Conditions) discharge

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characterization and no higher was appropriate. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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 he was issued a "General (Under Honorable Conditions)" characterization of service, a Narrative Reason for Separation of "Secretarial Authority," SPD code of "JFF1," separation authority of "MARCORSEPMAN 6214," and Reenlistment code of "RE-1J."

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

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 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.

5/1/2023

[REDACTED]
Executive Director

Signed by [REDACTED]