



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

█  
Docket No. 1869-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █  
█ 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 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 an upgrade to his discharge characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosure (2) applies.

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 15 May 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, and applicable statutes, regulations, 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 and began a period of active duty service on 29 March 1977. On 16 May 1978, Petitioner received nonjudicial punishment (NJP) for disrespect towards a commissioned officer, wrongfully communicating a threat, and wrongfully appearing in an improper uniform. On 2 April 1979, Petitioner received a second NJP for unauthorized absence (UA) from appointed place of duty. On 14 May 1979, Petitioner received a third NJP for

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violation of a lawful order by parking in a reserved parking space. On 13 June 1979, Petitioner received a fourth NJP for violation of a general regulation by taking alcoholic beverages out of the [REDACTED] Snack Bar, and violation of a guard order by failing to ensure that no Marines removed beer from the Snack Bar while posted as a sentinel. On 16 August 1979, the Petitioner's previous NJP suspended punishment was vacated due to continuous misconduct. On 23 August 1979, Petitioner received a fifth NJP for a period of UA from appointed place of duty. On 14 January 1980, Petitioner received a fifth NJP for sleeping while on duty. On 6 March 1980, Petitioner was UA from his appointed place of duty. On 15 March 1980, Petitioner began a period of UA which lasted three-days and resulted in his sixth NJP on 18 March 1980. On 23 April 1980, Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to frequent involvement, at which point, he decided to waive his procedural rights. On the same date, the Petitioner's commanding officer recommended that he be administratively separated from the Navy with an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to frequent involvement. On 25 April 1980, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. On 28 April 1980, the separation authority approved and ordered that Petitioner be administratively separated from service with an OTH discharge characterization by reason of misconduct due to frequent involvement. On 15 May 1980, Petitioner was so discharged. On 18 September 2007, this Board denied the Petitioner's request for a discharge characterization upgrade.

d. Petitioner contends he was exposed to prejudice coming from other Marines. Petitioner claims the first example of this took place when he was profiled by a Major who claimed that the car he drove was too nice for an African American to own and accused him of committing crimes to afford it. Petitioner describes an incident in which he was off duty with his friend sitting in the park drinking and wiping down the car. Petitioner admits he was wrong by not stopping to wipe off his car and rendering the proper courtesy while taps was playing. Petitioner was then approached by a Marine in PT clothes who questioned why he did not stop what he was doing and rendered the proper courtesy. Petitioner claims the individual in PT saw his wallet on the car seat and attempted to take it. Petitioner states he felt threatened by this individual and decided to protect himself by striking him. Petitioner claims the individual never identified himself as an officer or an NCO. Petitioner accepted his NJP and claims he was never convicted by court-martial. Petitioner states he was awakened and given 12 hours to leave the military installation and was issued an OTH discharge characterization by reason of conviction by civil authorities. Petitioner claims he has never been arrested, tried, or convicted in any criminal court. Petitioner admits that there were instances when he was wrong, however, he believes that he does not deserve an OTH characterization. Since his discharge from service, Petitioner has been working for 43 years for the [REDACTED] housing authority performing landscaping and maintenance duties.

#### CONCLUSION:

Upon review and consideration of the evidence of record, the Board determined Petitioner's request warrants partial relief. Specifically, the Board determined that Petitioner was issued a DD Form 214 which contains the following administrative errors: Block 25 separation authority

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as "6017.3c," Block 26 separation code "GKB-1," and Block 28 reflecting "misconduct – conviction by civil authorities (administrative board).

Notwithstanding the below recommended corrective action, the Board concluded Petitioner's assigned characterization of service remains appropriate. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. These included, but were not limited to, his desire for a discharge upgrade and his contentions as discussed above. However, after thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and found that his conduct showed a complete disregard for military authority and regulations. The Board was not persuaded by Petitioner's contentions and noted he provided no evidence to substantiate his assertion that he was treated unfairly. The Board further noted that while Petitioner provided a detailed explanation of one incident of misconduct, he failed to provide any justification for the misconduct that formed the basis for his other NJPs. Finally, for purposes of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters. As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting relief as a matter of clemency or equity.

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

**RECOMMENDATION:**

That Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 15 May 1980, with the following changes:

1. Block 25 separation authority reflecting "6017.2b" vice "6017.3c,"
2. Block 26 separation code reflecting "JKA-1" vice "GKB1," and
3. Block 28 narrative reason for separation reflecting "misconduct – frequent involvement (without administrative board)" vice "misconduct – conviction by civil authorities (administrative board).

That no further changes be made to Petitioner's record.

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.

6/1/2023

[REDACTED]

Executive Director

[REDACTED]