



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

[REDACTED]  
Docket No. 2200-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]  
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552  
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures

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 discharge be upgraded to "Honorable." Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 26 May 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. Before applying to this Board, 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Petitioner enlisted in the Marine Corps with a pre-service history of minor marijuana use and began active duty on 12 September 1982.

b. Following a period of unauthorized absence (UA) from 16 – 19 December 1983, Petitioner accepted non-judicial punishment for a violation of Article 86 of the Uniform Code of Military Justice.

c. Petitioner again absented himself without authority from 14 February – 7 March 1984; after surrendering, he was issued counseling advising him that his frequent involvement of a

discreditable nature with military authorities could result in administrative discharge if it continued.

d. Pending charges, Petitioner submitted a request for separation in lieu of trial, which was denied. Before Special Court-Martial (SPCM) on 14 August 1984, he pleaded guilty to one specification of Article 86 for his previous extended period of UA but not guilty to a second specification for failure to go to his appointed place of duty and to missing movement. He was found guilty of missing movement through neglect, rather than by design, and was also found guilty of both specifications under Article 86, with exceptions and substitutions regarding the date and time which he failed to go to his appointed place of duty.

e. The convening authority disapproved the finding of guilt on the charge of failure to go and dismissed it, but approved the remainder of the findings as well as the sentence of reduction to E-1, 60 days confinement at hard labor, forfeitures, and a Bad Conduct Discharge (BCD).

f. Petitioner did not request restoration and was not granted clemency. The findings and sentence of his SPCM were subject to appellate review, which considered an assignment of error by appellate defense counsel but found the findings and sentence to be correct in law and fact without materially prejudicial error, specifically addressing that the harshness of the sentence was not excessive in light of the aggravating circumstances regarding his missed movement.

g. Petitioner's BCD was ordered executed, and he was punitively discharged on 12 November 1985.

h. Petitioner's previous application to the Board was denied. However, Petitioner did not submit supporting documentation regarding his post-discharge character or behavior.

i. Petitioner contends that his post-discharge behavior and conduct is evidence of his rehabilitation and good character, which he submits through counsel outlined against the factors addressed by reference (b). He provided amplifying evidence regarding mitigating circumstances related to his UA by way of a letter from his sister who described that their step-father had begun using crack-cocaine and, when Petitioner returned home on authorized leave, he discovered the severity of the situation and abuse his mother was suffering. He submitted three character letters in support of his post-discharge behavior and community involvement as well as newspaper articles attesting to his contributions to his community.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of partial relief. The Board reviewed the application under the guidance provided in reference (b).

In this regard, the Board noted Petitioner's misconduct and does not condone it; however, the Board favorably considered his evidence of post-discharge rehabilitation and character, specifically observing that Petitioner's post-service accomplishments include documented

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contributions to underserved members of his community. As a result, the Board found that the totality of favorable factors in support of clemency and, as outlined by Petitioner's legal counsel, outweighed the victimless, military-specific misconduct which resulted in Petitioner's punitive discharge. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and change basis for discharge to Secretarial Authority.

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 characterization and no higher was appropriate. Additionally, the Board found that Petitioner's reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board found that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 12 November 1985, he was discharged with a "General (Under Honorable Conditions)" characterization of service, under the authority of "MARCORSEPMAN par. 6214," for the narrative reason of "Secretarial Authority," with a separation code of "JFF1."

No further changes are required.

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.

6/12/2023

[REDACTED]  
Executive Director

Signed by: [REDACTED]