



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

█
Docket No. 3010-23
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, "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 that her naval record be corrected by upgrading his characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 17 April 2023 and, pursuant to its regulations, determined 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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 U.S. Marine Corps and began a period active duty on 19 March 2001. On 26 September 2002, Petitioner received nonjudicial punishment (NJP) for two instances of disobeying orders by operating a vehicle with a suspended license, and delinquency of a minor by drinking and allowing a fellow Marine drinking alcohol in his presence. On

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15 May 2003, Petitioner received a second NJP for disobeying a lawful order from a senior commissioned officer of not to consume alcohol in the barracks. On 30 June 2003, Petitioner was ruled out as an alcohol rehabilitation failure by consuming alcohol while in treatment. On 19 August 2003, Petitioner was diagnosed by a medical officer with Crohn's disease. On 9 September 2003, Petitioner received a third NJP for disobeying a lawful order by consuming alcohol in the barracks. On 1 October 2003, Petitioner was notified of the initiation of administrative separation proceedings by reason of alcohol rehabilitation failure, at which point, he decided to waive his procedural rights. On the same date, the Petitioner's commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of alcohol rehabilitation failure. On 21 October 2003, the separation authority approved and ordered a General (Under Honorable Conditions) discharge characterization by reason of alcohol rehabilitation failure. On 28 October 2003, Petitioner was so discharged.

d. Petitioner contends shortly after he arrived at his first duty station, he was diagnosed with Crohn's disease, which still affects him to this day. Petitioner has also been diagnosed with primary sclerosis cholangitis and chronic pancreatitis due to Crohn's. Petitioner states having Crohn's disease greatly affected him mentally, physically, and emotionally. Unfortunately, the doctors were not so helpful with pain management, so he turned to drink. Petitioner claims he was brand new to drinking alcohol and was not good at handling it. Petitioner states it was the only thing that helped him with the pain and embarrassment of having Crohn's. Petitioner has since completed treatment and has found sobriety. Petitioner is currently working for the Department of Veterans Affairs (VA) so that he can assist in helping veterans. Petitioner is currently receiving sixty percent disability for the VA.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. Specifically, in light of reference (b), after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, the Board determined that Petitioner's narrative reason for separation should be changed from "alcohol rehabilitation failure" to "Secretarial Authority." In making this finding, the Board considered Petitioner's documented medical condition at the time and his post-discharge sobriety.

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 even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. In light of his three NJPs, the Board concluded significant negative aspects of his service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. Further, the Board determined Petitioner's reentry code remains appropriate for the same reasons. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed through the recommended corrective action.

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RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 indicating, for the period ending 28 October 2003, that his narrative reason for separation was "Secretarial Authority," his SPD code was "JFF1," and his separation authority was "MARCORSEPMAN 6214."

No further changes be made to Petitioner's record.

A copy of this report of proceedings be filed in Petitioner's naval record.

5. 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.

6. 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.

[REDACTED]

Executive Director

Signed by: [REDACTED]