



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

█  
Docket No: 3809-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █  
█ XXX XX █ USMC

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149  
(2) BMC MRCD, █ Ltr dtd 19 Feb 03  
(3) CO █ in Marine Corps Recruit Depot ltr 1910 SJA/lbb dtd 28 Feb 23  
(4) Endo ltr 1910 SJA/lbb dtd 7 Mar 23  
(5) Certificate of Release or Discharge from Active Duty 10 Mar 03  
(6) Department of Veterans Affairs Benefits Letter 12 Apr 23

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 naval record be corrected by changing his characterization of discharge to General (Under Honorable Conditions) and to change his narrative reason for separation from condition not a disability to disability.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 14 September 2023, and pursuant to its regulations, determined that 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 the naval records, and applicable statutes, regulations, and policies.

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. 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.

b. Petitioner enlisted in the United States Marine Corps and began active duty on 3 June 2002. On 3 August 2002, Petitioner went to sick call after hitting his head during recruit training; a CT scan showed a fracture. On 5 September 2002, Petitioner was evaluated by neurosurgery; Petitioner was noted to have a normal neurological evaluation, that his headache symptoms had decreased in severity and that his symptoms were well controlled with medication. On 30 October 2002, a medical evaluation board referred Petitioner to the Physical Evaluation Board (PEB) for post-concussive headaches. A letter from Base Medical Clinic

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Marine Recruit Depot dated 19 February 2003, enclosure (2), states that the PEB determined Petitioner was Fit for duty but suffers from a physical condition, not a disability, related to his head injury that interferes with his ability to perform military duties.

c. On 28 February 2003, the Commanding Officer (CO) Support Battalion (SptBn), [REDACTED] notified Petitioner of administrative separation due to his diagnosis of post concussive migraines, a physical condition that is not a disability. The CO noted that the least favorable characterization of service Petitioner would receive is a General (Under Honorable Conditions), enclosure (3). On 7 March 2003, the Commanding General, (CG) [REDACTED] directed that Petitioner be separated from the Marine Corps by reason of convenience of the government due to a physical condition not a disability, that the characterization of service would be General (Under Honorable Conditions), the reenlistment code of RE-3P, and the separation code of JFV1. However, Petitioner was discharged, on 10 March 2003, with a character of service listed as uncharacterized and the narrative reason for separation of condition not a disability, enclosure (5).

d. Petitioner contends he warrants a change in his characterization of service and narrative reason for separation due to the fact the Department of Veterans Affairs (VA) rated him with a 80% disability and has his character of service as under honorable conditions. Petitioner included his VA benefits letter with his petition, enclosure (6).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. Specifically, the Board noted an error; Petitioner's Certificate of Release from Active Duty (DD Form 214) states Petitioner's characterization of service as uncharacterized. However, the CO, [REDACTED] recommended Petitioner receive a General (Under Honorable Conditions) discharge and the CG [REDACTED] directed Petitioner be discharged with a General (Under Honorable Conditions). Moreover, Petitioner served over nine months on active duty and an uncharacterized discharge is mandated only for those service members who serve less than 180 days of active service. Finally, the Board did not considered whether an Honorable characterization of service was appropriate in Petitioner's case since he did not request such relief.

Notwithstanding the Board's recommendation to grant partial relief, the Board concluded the preponderance of the evidence does not support changing the narrative reason for separation. Specifically, the Board found insufficient evidence that Petitioner had a disability while on active duty, or that the PEB decision was erroneous. The Board found that the PEB and medical staff concurred that his condition, post-concussive headaches was not a qualifying disabling condition during the Petitioner's period of active service. The Board was not persuaded by Petitioner's VA evidence as eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated.

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RECOMMENDATION

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

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that his characterization of service at the time of his discharge was General (Under Honorable Conditions).

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

A copy of this report of proceedings shall 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.

10/16/2023

[REDACTED]