



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

█
Docket No. 5456-23
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) Title 10 U.S.C. § 1552
(b) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

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 Other Than Honorable (OTH) discharge be upgraded to an Honorable discharge.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 28 August 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 Petitioner's naval record, and 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 enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application 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. After a period of Honorable service, Petitioner reenlisted in the Marine Corps on 16 December 1988. On 30 October 1989, he received non-judicial punishment for disobeying a lawful order. On 20 November 1989 and 13 December 1989, he received two Page 11 counselings due to receiving a driving under the influence conviction and displaying a pattern of misconduct. On 28 February 1990, he received an additional Page 11 counseling due to his failure to comply with a civil court order.

b. Starting on 14 August 1991, he went into an unauthorized absence (UA) status until apprehended and returned to military authorities on 15 September 1992. Subsequently, he submitted a voluntary written request for an OTH discharge for separation in lieu of trial by court-

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martial for the aforementioned period of UA. Prior to submitting this request, Petitioner conferred with a qualified military lawyer, at which time he was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. His request was granted and his commanding officer was directed to issue an OTH discharge for the good of the service. On 20 October 1992, he was so discharged. Upon his discharge, Petitioner was issued a DD Form 214 that did not reflect his previous period of continuous Honorable service.

c. Petitioner contends he went UA due to his mother being sick and his request for emergency leave was denied. He also states he has been a model citizen, father of four, employed with a Class A CDL license for 18 years, a volunteer in the community, and has participated in the Narcotics Anonymous for 20 years. For purposes of clemency and equity consideration, the Board noted Petitioner provided a personal statement and an advocacy letter.

CONCLUSION

After careful review and consideration of all of the evidence of record, the Board determined that partial relief is warranted in the interest of justice.

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) (GEN). The Board reviewed Petitioner's disciplinary infraction and does not condone his misconduct. However, the Board concluded that Petitioner's post-service conduct supports the recommended relief in his case. Therefore, purely as a matter of clemency, the Board concluded it was appropriate to upgrade Petitioner's characterization of service to GEN.

Additionally, the Board also determined that an administrative change to Petitioner's DD Form 214, Certificate of Release or Discharge from Active Duty should be made to reflect that his previous enlistment was completed without any serious adverse disciplinary action. The Board was aware that the Department of the Navy no longer issues a separate DD Form 214 to enlisted personnel at the completion of each individual enlistment, and instead, makes appropriate notations in the Block 18 Remarks section upon their final discharge or retirement from the armed forces reflecting such previous enlistments.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's narrative reason for separation, separation authority, separation code, and reentry code remain appropriate in light of his record of misconduct. Ultimately, the Board determined any error or injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION

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

Petitioner be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty, for the period ending 20 October 1992, indicating Petitioner was discharged with a "General

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XXX XX [REDACTED] [REDACTED] USMC

(Under Honorable Conditions)” characterization of service. Additionally, that Block 18 Remarks also reflect: “CONTINUOUS HONORABLE SERVICE FROM 26FEB1985 TO 15Dec1988.”

That no further changes be made to Petitioner’s 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 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

10/30/2023

[REDACTED]