



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

█
Docket No. 5813-23
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552
(b) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018

- Encl:
- (1) DD Form 149 with enclosures
 - (2) DD Form 214
 - (3) Standard Form 513, Medical Record – Consultation Sheet, 5 February 1992
 - (4) NAVMC 118(11), Administrative Remarks, 14 February 1994
 - (5) █ █ Chaplain Memo 1900 19, subj: [Petitioner], 25 February 1992
 - (6) █ Department of Mental Health, Narrative Summary of Hospitalization, 19 March 1992
 - (7) █ Memo 1900 17:LSN, subj: Notification of Separation Proceedings, 26 March 1992
 - (8) Petitioner's Memo 1900 17:LSN, subj: Acknowledgement of my Rights to be Exercised or Waived during Separation Proceedings, 26 March 1992
 - (9) █ Memo 1900 17:LSN, subj: Administrative Separation Proceedings for the Convenience of the Government due to Personality Disorder in the case of [Petitioner], 26 March 1992
 - (10) █ SJA Memo 1910 17, subj: Administrative Separation Proceedings for the Convenience of the Government due to Personality Disorder in the case of [Petitioner], 7 April 1992
 - (11) █ CG Memo 1910 17, Second Endorsement on Enclosure (9), subj: Administrative Separation Proceedings for the Convenience of the Government due to Personality Disorder in the case of [Petitioner], 8 April 1992

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, hereinafter referred to as the Board, requesting that his characterization of service be upgraded to honorable.

2. The Board considered Petitioner's allegations of error or injustice on 28 August 2023 and, pursuant to its governing policies and procedures, determined that the equitable relief indicated

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

below is warranted in the interests of justice. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include reference (b).

3. Having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board 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 interests of justice to waive the statute of limitations and consider Petitioner's application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty service on 23 June 1989. See enclosure (2).

d. On 5 February 1992, Petitioner was referred for a psychiatric evaluation due to symptoms of depression and suicidal ideations. These symptoms were attributed to relationship difficulties with his fiancée. See enclosure (3).

e. On 7 February 1992, Petitioner received a psychiatric evaluation from the Psychiatry Clinic at [REDACTED], which resulted in diagnoses of an Adjustment Disorder (with Mixed Emotional Features) and Borderline Personality Disorder. The evaluating psychiatrist strongly recommended that Petitioner be administratively separated from active duty for unsuitability due to a preexisting personality disorder. See enclosure (3).

f. On 14 February 1992, Petitioner was formally counseled regarding his personality disorder. See enclosure (4).

g. By memorandum dated 25 February 1992, the battalion chaplain recommended that Petitioner be administratively discharged due to his apparent emotionally unstable condition, based upon his observations during counseling of Petitioner over a two-month period. The chaplain observed that Petitioner "continues to exhibit an almost extreme state of anxiety being highly tense, depressed, emotional and illogical in his reasoning rendering him virtually incapable of making logical decisions." See enclosure (5).

h. Based upon his deteriorating mental state, Petitioner was admitted to the acute mental health unit at [REDACTED] on 17 March 1992. While hospitalized, Petitioner received another psychiatric assessment, which confirmed the previous diagnoses of an Adjustment Disorder (with Mixed Disturbance of Emotions and Conduct),¹ and a Borderline Personality Disorder. He was again recommended for an administrative separation for unsuitability due to his personality disorder. See enclosure (6).

i. By memorandum dated 26 March 1992, Petitioner was notified of his command's intent to

¹ This condition was demonstrated by Petitioner's apparent reaction to relationship difficulties with his fiancée, and indicated by occupational functioning and symptoms in excess of normal expected reaction.

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

recommended his discharge from the Marine Corps for the convenience of the government due to his personality disorder. See enclosure (7).

j. On 26 March 1992, Petitioner acknowledged the notice of his administrative separation processing, and waived his right to submit any matters in response. See enclosure (8).

k. Upon receipt of Petitioner's acknowledgment of his administrative separation processing, Petitioner's battalion commander recommended to the separation authority that Petitioner be separated from the Marine Corps with a general (under honorable conditions) characterization of service for the convenience of the government due to a personality disorder. The stated basis for this recommendation was Petitioner's "inability to adapt to life in the ... Marine Corps. His short period in the Marine Corps has been marked by unpredictable behavior and an inability to perform his duties without constant supervision." See enclosure (9).

l. By memorandum dated 7 April 1992, the separation authority's Staff Judge Advocate (SJA) found the administrative discharge proceedings to be sufficient in law and fact. Contrary to the recommendation of the battalion commander, the SJA recommended that Petitioner be honorably discharged for the convenience of the government. See enclosure (10).

m. By memorandum dated 8 April 1992, the separation authority directed that Petitioner be administratively separated from the Marine Corps with a general (under honorable conditions) characterization of service for the convenience of the government due to a personality disorder. See enclosure (11).

n. On 30 April 1992, Petitioner was discharged from the Marine Corps for the convenience of the government for a condition not a physical disability, specifically a personality disorder, with a general (under honorable conditions) characterization of service. See enclosure (2).

o. Petitioner contends that his discharge is inequitable because it was based upon one isolated incident out of 28 months of service.² His application is supported by character references from his former Platoon Commander, supervisor, and other platoon members, who all attest to his favorable character, work ethic, and reliability. He also claims to have been gainfully employed as a private investigator in the state of [REDACTED] for the past 26 years.³ See enclosure (1).

MAJORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Majority of the Board determined that full relief is warranted in the interests of justice.

The Majority found no error or injustice in Petitioner's discharge at the time that it was administered. Personality disorders were an appropriate basis for discharge for the convenience of the government at the time, and a general (under honorable conditions) characterization of

² It is not clear from the record what "one isolated incident" Petitioner is referring to.

³ Petitioner provided a resume with his application indicating that he worked as a Senior Field Investigator for an investigative service from 2002 to 2016, and as an investigator for another agency since 2019.

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

service was authorized under the circumstances. Petitioner's unsuitability due to his personality disorder was established by multiple mental health professionals who evaluated him during his service. Finally, all of the due process requirements were satisfied to administratively separate Petitioner for the convenience of the government due to his diagnosed personality disorder. Accordingly, there was no error or injustice in the administration of Petitioner's discharge which warranted any relief.

In addition to reviewing the circumstances of Petitioner's discharge at the time it was administered, the Majority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice. In this regard, the Majority considered, among other factors, the absence of any evidence of misconduct in Petitioner's naval record; that Petitioner would not reasonably expect to receive the same type of discharge under similar circumstances today; that the separation authority's SJA recommended that Petitioner be honorably discharged for the convenience of the government; that borderline personality disorder is a condition over which Petitioner had no control; that Petitioner maintained average performance and conduct marks of 4.5 and 4.3 respectively during his Marine Corps career; that Petitioner apparently served honorably and without issue for nearly three years before the circumstances of his relationship with his then-fiancée triggered the symptoms of his underlying personality disorder; the favorable character references provided by Petitioner's supervisors and peers during his Marine Corps service; the stigma associated with a personality disorder, and the requirement to disclose such personal information upon reference to Petitioner's military service; Petitioner's post-discharge record of employment and success, despite the stigma of his discharge; and the passage of time since Petitioner's discharge.

Based upon these considerations, the Majority found that an equitable upgrade of Petitioner's characterization of service to honorable is warranted in the interests of justice. Petitioner had no control over the fact that he had a personality disorder which rendered him unsuitable for military service. Despite this fact, there is no evidence of misconduct in his record, and he maintained performance and conduct marks which would have otherwise warranted an honorable discharge. He also apparently earned the respect of his superiors and peers with his performance, as reflected in the character references provided with his application. Accordingly, the Majority found nothing in the record that Petitioner did to justify a less than fully honorable discharge. Combined with the other mitigating factors, to include his post-service record of employment and success, the Majority believed that an upgrade of his characterization of service to fully honorable was clearly warranted in the interests of justice.

Although not specifically requested by the Petitioner, the Majority also considered whether Petitioner's narrative reason for separation should be changed in the interests of justice. The Majority believed that such a change was warranted for the same reasons that it believed Petitioner's characterization of service should be upgraded. The Majority also found an additional injustice in the fact that reference to Petitioner's personality disorder on his DD Form 214 requires him to disclose personal and potentially embarrassment information about his mental health whenever he may have reason to prove his previous military service. Service members separated under similar circumstances today would not be subjected to such stigma or embarrassment. Accordingly, the Majority found that a change to Petitioner's narrative reason

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

for separation (and the associated entries on his DD Form 214) is also warranted in the interests of justice.

MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that his service ending on 30 April 1992 was characterized as "Honorable"; that his narrative reason for separation was "Determination of Service Secretary – Secretary of the Navy Plenary Authority"; that his separation authority was "MARCORSEPMAN par. 6214"; that his separation code was "JFF1"; and that his reentry code was "RE-1J." Reference to the current narrative reason for separation and Petitioner's personality disorder is also to be removed from the remarks in block 18 of his newly issued DD Form 214.

That Petitioner be issued an Honorable Discharge Certificate.

That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on Petitioner's naval record.

MINORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Minority of the Board also determined that equitable relief is warranted in the interests of justice. However, the Minority determined that such relief should extend only to Petitioner's narrative reason for separation (and the other associated entries on his DD Form 214), and not to his characterization of service or reentry code.

The Minority concurred with the Majority conclusion that there was no error or injustice in Petitioner's discharge at the time that it was administered.

Like the Majority, the Minority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Minority considered the same potentially mitigating factors as did the Majority, but reached a different conclusion than did the Majority with regard to Petitioner's characterization of service. The Minority noted that Petitioner's battalion commander stated that his reason for recommending that Petitioner's service be characterized as general (under honorable conditions) was that his "short period in the Marine Corps has been marked by unpredictable behavior and an inability to perform his duties without constant supervision." The latter portion of that comment implies other deficiencies that are not readily apparent in the record. Additionally, the Minority noted that the Petitioner's psychiatric evaluations reveal that he described himself as "prone to temper outbursts," and that he admitted planning a suicidal gesture to "speed up his administrative separation which he was worried was 'lost in the shuffle.'" Such conduct does not reflect an inability to control his action; rather, it reflects

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

deliberate conduct intended to force his desired end state. Under such circumstances, the Minority found no injustice in the current characterization of Petitioner's service.

Despite not finding any injustice in Petitioner's characterization of service, the Minority concurred with the Majority conclusion that Petitioner's narrative reason for separation constitutes an injustice warranting relief. Specifically, the Minority found an injustice in the fact that Petitioner must disclose personal and potentially embarrassing information about his mental health in order to prove his former military service, when other similarly situated individuals do not. It is also simply not necessary to continued stigmatizing Petitioner for his personality disorder, as reflected by the fact that such information is no longer recorded on DD Forms 214. Accordingly, the Minority agreed with the Majority conclusion that Petitioner's narrative reason for separation, and the associated entries on his DD Form 214, should be changed in the interests of justice to remove this stigma.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that his narrative reason for his separation from the Marine Corps on 30 April 1992 was "Determination of Service Secretary – Secretary of the Navy Plenary Authority"; that his separation authority was "MARCORSEPMAN par. 6214"; and that his separation code was "JFF1." Reference to the current narrative reason for separation and Petitioner's personality disorder is also to be removed from the remarks in block 18 of his newly issued DD Form 214. All other entries currently reflected on Petitioner's DD Form 214 are to remain unchanged, to include his characterization of service and reentry code.

That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on 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 titled matter.

5. The foregoing action of the Board is submitted for your review and action.

10/20/2023

[REDACTED]

Executive Director

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

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

___ MAJORITY Recommendation Approved (Full Relief – I concur with the Majority conclusion and therefore direct the relief recommended by the Majority above.)

MINORITY Recommendation Approved (Partial Relief – I concur with the Minority conclusion and therefore direct the relief recommended by the Minority above.)

10/27/2023

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]