

d. Petitioner accepted a second NJP, on 7 August 1978, for UCMJ Article 134, due to being incapacitated for the proper performance of duties, two specifications under Article 91 for disobeying a lawful order from your superior noncommissioned officer to put your cigarette out in a "No smoking" area and treated him with contempt and disrespectful language, and under Article 89 for behaving with disrespect toward the same superior.

e. Although an administrative counseling in February of 1979 documented that Petitioner was commended by the Commanding General during an inspection for having outstanding boots, he accepted a third NJP, on 12 June 1979, for two additional violations under Article 86 for an initial unauthorized absence UA on 4 June 1979 with a following period of UA from 4 – 7 June 1979.

f. Subsequently, Petitioner was charged with violations under Article 86 for going from his appointed place of duty at Alcoholics Anonymous without authority, under Article 87 for missing movement through design, and under Article 134 for breaking restriction by going to the All-hands Enlisted Club after having been restriction to the limits of the ship.

g. On 6 August 1979, Petitioner requested discharge for the good of the service in lieu of trial by court-martial, explaining that he had already received alcohol rehabilitation assistance but that it did not help. He specified that he did not think he could stop drinking while in the Marine Corps and believed he would continue to get into trouble as long as he continued to drink. He attributed all misconduct excepting his first UA offense to his drinking problem.

h. While final decision was still pending on Petitioner's request for discharge, he accepted a fourth NJP for another violation of Article 86 due to an additional UA period.

i. Legal review of Petitioner's request required additional acknowledgment regarding his waiver of rights. Once complete, his request was approved, and he was discharged, on 19 October 1979, with an Other Than Honorable characterization of service.

j. Petitioner previously sought documentary review from the Naval Discharge Review Board (NDRB), which considered his issues on 24 September 1982. He sought an opportunity to reenlist and finish his service, stating that he felt differently about service than he had previously and expressing a belief that he could cope with discipline and authority and adjust to military life. His request was denied by the NDRB.

k. Petitioner previously applied to the Board twice, seeking consideration of clemency, in Docket Numbers 9681-10 and 9850-16. He was denied on both occasions.

l. Petitioner now seeks reconsideration of his previous request for consideration of clemency, contending that he has fully accepted responsibility for his actions and that his post-discharge character merits consideration of clemency. He cites to relevant factors with respect to reference (b), to include that he committed his mistakes at a young and impressionable age, has been dedicated to overcoming his past for more than 40 years since his discharge – to include

overcoming his alcoholism – and believes that his efforts and accomplishments should be acknowledged with an upgraded characterization of service on the basis of equity.

m. In support of his contentions, Petitioner submitted a copy of his resume which primarily reflects his continued employment in food services with [REDACTED] seven character letters from coworkers, his employer, and friends. In addition to general positive observations regarding his work performance and behavior, multiple letters of support reflect that he often gives hand-written cards to provide support and well wishes to people, that he participates in his community to include senior center activities, that he shares his experiences and struggles in the military with others as well as listening to those around him and helping them feel supported, that he has worked hard to overcome challenges which include health issues, and, most significantly, that he spoke up to defend a fellow employee with special needs.

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 the relevant clemency factors which Petitioner outlined in his request as well as his evidence of post-discharge rehabilitation and character. Specifically, the Board observed that Petitioner has successfully recovered from his problematic alcohol use and has maintained sobriety. The Board also noted that over 40 years has passed since his discharge for his alcohol-related offenses committed during his youth, and that he now contributes to the well-being of those in his community through the limited means available to him. In this regard, the Board found that Petitioner's concern for others and attentiveness to their well-being, to include standing up for others in the workplace. As a result, the Board found that the totality of favorable matters in support of clemency outweighed Petitioner's misconduct sufficiently to warrant an upgrade of his discharge to honorable conditions. Accordingly, the Board determined that it is in the interest of justice to grant the partial relief by changing his characterization of service to General (Under Honorable Conditions). Further, the Board determined it was in the interests of justice to also change Petitioner's narrative reason for separation and separation code to reflect a Secretarial Authority discharge.

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 determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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 19 October 1979, his "General (Under Honorable Conditions)" discharge was issued under the authority of "MARCORSEPMAN par 6214" for the narrative reason of "Secretarial Authority" with a separation code of "JFF1."

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

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.

10/5/2023

