



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

█
Docket No. 9321-23

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) 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) requesting his characterization of service be changed to either "General (Under Honorable Conditions)" or "Honorable" on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 8 December 2023, and pursuant to its regulations, determined that 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 reference (b).

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 Marine Corps and began a period of active service on 24 September 1996, after admitting to pre-service marijuana use.

d. On 14 June 1997, Petitioner received non-judicial punishment (NJP) for wrongful use of marijuana.

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e. On 15 July 1997, Petitioner was notified of administrative separation processing by reason of misconduct due to drug abuse. He waived his right to consult with counsel, make a statement, or have his case heard by an administrative discharge board. Petitioner's commanding officer recommended an under Other Than Honorable (OTH) discharge by reason of his misconduct. On 4 August 1997, the discharge authority directed an OTH characterization of service and, on 25 September 1997, he was so discharged.

f. Petitioner contends that his detailer told him he could detox in bootcamp, he did detox, but then relapsed when he went home on leave and his cousin and two friends died, he has turned his life around, owns his own business, volunteers, and is active in church. For purposes of clemency and equity consideration, the Board considered Petitioner's statement, the advocacy letter, and six professional certificates he provided.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants relief in the interests of justice.

The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse.

The Board noted Petitioner's disciplinary infractions and does not condone his misconduct, which resulted in his OTH characterization of service. However, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (b). After reviewing the record holistically, and given the totality of the circumstances, and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "General (Under Honorable Conditions)." Additionally, the Board determined Petitioner's basis for separation should be changed to "Secretarial Authority." In making this determination, the Board considered the evidence Petitioner submitted that documented his post-discharge good character and successful completion of six professional courses in the constructions trade, as well as a Journeyman Operating Engineer certificate. Further, the Board took into consideration Petitioner otherwise clean record during his year of active-duty service.

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 in his short tenure outweighed the positive aspects of his military record, and that a General (Under Honorable Conditions) discharge characterization, and no higher, was appropriate. Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his drug abuse discharge and unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

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RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 25 September 1997, indicating his character of service as "General (Under Honorable Conditions)," separation authority as "MARCORSEPMAN 6214," separation code as "JFF1," and narrative reason for separation as "Secretarial Authority."

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 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.

1/10/2024

