



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

[REDACTED]  
Docket No: 6512-16 /  
239-14  
NOV 20 2017

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

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

- Ref: (a) 10 U.S.C. §1552  
(b) Secretary of Defense's Memorandum, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Request by Veterans Claiming Post Traumatic Stress Disorder," of 3 September 2014  
(c) PDUSD Memo of 24 Feb 16 "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or TBI"  
(d) PDUSD Memo of 25 Aug 17 "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment"

- Encl: (1) DD Form 149 (NR20160006512)  
(2) DD Form 149 (NR20140000239)  
(3) Case Summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting reconsideration of the Board's previous denial of correction<sup>1</sup> to Petitioner's characterization of service from an other than honorable to an honorable characterization of service and for a correction to his narrative separation reason to read "Secretarial Authority." References (b) through (d), and enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 28 August 2017 and, pursuant to its regulations, determined that the partial 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 his 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:

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<sup>1</sup> NR20140000239 was denied based on an application of the Board's statute of limitations.

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a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner with respect to the statute of limitations,

c. Petitioner enlisted in the Marine Corps and began a period of active duty in 12 May 1990. On 7 February 1991, Petitioner deployed to the Persian Gulf as a tank crewman. In his application to the Board, Petitioner states that his deployment "is what Hell would look like, with fire exploding from the ground." Enclosure (1). Petitioner states that he experienced gas attacks, threat of gas attacks, claustrophobia from the MOPP Level 3 charcoal uniform, and witnessed death and burning bodies. Petitioner's performance during the deployment earned him performance and conduct marks of 4.2/4.4.

d. In May 1991, after returning from his deployment Petitioner received nonjudicial punishment (NJP) for wrongful use of a controlled substance (methamphetamines).

e. In April of 1992, Petitioner was counseled for writing 20 bad checks and having a complete lack of financial responsibility. His military performance, however, remained steady with marks of 4.0/4.0.

f. In July of 1992, after a three week period of unauthorized absence (UA), Petitioner's performance marks declined to 2.0/2.0. In August 1992, Petitioner received a second NJP for the period of UA from 8 to 26 July 1992.

g. In November 1992, Petitioner was arrested by civilian authorities for driving under the influence of alcohol (DUI), and attended Level I and Level II treatment for the alcohol-related incidents.

h. In December 1992, Petitioner received his third NJP after being apprehended by military authorities for DUI. Petitioner was found guilty of exceeding the speed limit by 20 miles per hour, having open containers in his vehicle, wearing inappropriate civilian attire and driving without a license. By January 1993, Petitioner's marks were 1.0/1.0. One month later, on 1 February 1993, Petitioner received another NJP for operating a personally owned vehicle aboard a military installation.

i. On 18 February 1993, Commanding Officer, Regimental Combat Team Seven recommended that Petitioner be administratively separated with an other than honorable characterization of service. On 17 March 1993, Petitioner was separated from the Marine Corps with an other than honorable discharge, on the basis of a pattern of misconduct and drug abuse.

j. Petitioner provided the Board with information about his treatment from 2013 through 2016, by [REDACTED], Co-Director and Associate Clinical Professor at the [REDACTED] School of Medicine's Department of Psychiatry. [REDACTED] concludes "with great psychological certainty" that Petitioner was suffering from Post-Traumatic Stress Disorder (PTSD) upon returning from the Persian Gulf in April 1991, and that the PTSD was the proximal

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cause of Petitioner's NJPs. [REDACTED] further states that Petitioner continues to suffer from chronic and severe PTSD today.

k. The Board took into consideration Petitioner's request for a change to his narrative reason for separation as well as his request for an upgrade to his discharge characterization.

l. The Board, in its review of Petitioner's entire record and application, carefully weighed all potentially mitigating factors, such as Petitioner's PTSD diagnosis and his request that the diagnosis be considered when determining if the other than honorable discharge should be upgraded as a matter of justice. Petitioner's assertion of suffering from PTSD was given liberal consideration and fully and carefully considered by the Board in light of references (b)-(d). In accordance with references (b)-(d), the Board gives liberal and special consideration to treatment documentation of PTSD symptoms and medical determinations of the existence of service-connected PTSD.

m. The Board determined that based on the medical diagnosis of service-connected PTSD as evidenced by the statements from Petitioner's civilian providers, an upgrade to Petitioner's discharge characterization from other than honorable to general is warranted. The Board noted that Petitioner's misconduct was mitigated by the PTSD and the upgrade to discharge characterization appropriately reflected the impact the PTSD had on Petitioner while in service. The Board determined that although the PTSD diagnosis mitigated Petitioner's misconduct for purposes of determining the characterization of service, Petitioner nonetheless engaged in a pattern of behavior that supported his current narrative separation reason of "Pattern of Misconduct and Drug Abuse." The Board determined that Petitioner's PTSD diagnosis warranted the limited corrective action of an upgrade to his discharge characterization, but that it did not negate the misconduct in which he engaged during his time in the Marine Corps. The Board specifically noted that varied nature and the frequency of the misconduct when determining that Petitioner's did not merit a change to his separation narrative. Accordingly, the Board concluded that the PTSD diagnosis did not merit a change to his separation reason (Misconduct Pattern of Misconduct and Drug Abuse); additionally, the Board determined that the misconduct also supported the issuance of his current reentry code and SPD code.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of reference (b)-(d), and Petitioner's PTSD diagnosis, the Board concludes that Petitioner's request warrants partial relief.

In this regard, the Board notes Petitioner's overall record of military service and current policy as established in references (b)-(d), and concludes that that relief in the form of a change to Petitioner's other than honorable discharge characterization to a general discharge characterization is warranted.

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

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RECOMMENDATION:

That Petitioner's naval record be corrected to show that on 17 March 1993, he was discharged with a general characterization of service.

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

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

That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 22 July 2016.

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.

[REDACTED]

Recorder

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.

[REDACTED]

Executive Director