



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

██████████  
Docket No. 6273-23  
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) SECDEF Memo of 3 Sep 14 (Hagel Memo)  
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)  
(d) USD Memo of 25 Aug 17 (Kurta Memo)  
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures  
(2) Advisory Opinion (AO), 3 Jan 24  
(3) Rebuttal to AO, 7 Mar 24

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 discharge be upgraded either to “Honorable”; that his narrative reason for separation and separation code be changed to reflect “Secretarial Authority”; and, that his reentry code be changed to “RE-3G.” Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 29 March 2024, 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, applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board considered enclosures (2) and (3), the advisory opinion (AO) furnished by qualified mental health provider and Petitioner’s response to the AO.

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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

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b. Petitioner enlisted in the Marine Corps and began a period of active duty on 31 July 1980 and served for approximately one year without incident.

c. In the approximately 18 months between 13 July 1981 and 29 January 1983, Petitioner was subject to a total of six nonjudicial punishments (NJPs) for eight violations of the Uniform Code of Military Justice (UCMJ), to include:

(1) Article 91, for willfully disobeying a lawful order from a superior noncommissioned officer (NCO) to get out of his rack and commence field day;

(2) Article 91, for disrespectful language toward an NCO;

(3) Article 89, for behaving with disrespect toward an officer through his attitude and by being argumentative, to include raising his voice to the point of shouting;

(4) Article 90, for willfully disobeying a lawful order from an officer by refusing to acknowledge the order and stating he would not do what he was ordered to do;

(5) Article 134, for breaking restriction;

(6) Article 92, for violating a lawful order by being out of bounds;

(7) Article 92, for dereliction in the performance of his duties by sitting down and sleeping on security watch; and,

(8) Article 86, for an unauthorized absence from 1200, 5 January 1983, until 2359 the following day.

During this period, Petitioner also received two administrative counseling entries for marginal performance of duties, responsibilities, actions, and attitude and failure to observe customs and courtesies toward staff noncommissioned officers and officers.

d. On 4 March 1983, Petitioner was administratively counseled and warned regarding his frequent involvement of a discreditable nature with military authorities. He was advised that any further deficiencies in performance or conduct could result in processing for administrative discharge.

e. Subsequently, from 29 May 1983 through 18 November 1983, Petitioner was deployed to [REDACTED], to participate in multi-national peacekeeping. His awards for that period include a Marine Corps Expeditionary Medal [REDACTED], in addition to a Combat Action Ribbon.

f. On 24 June 1983, while deployed to [REDACTED] Petitioner was advised that, notwithstanding a review of his disciplinary history of six NJPs, his company commander had recommended that he be retained in the Marine Corps.

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g. After returning from his deployment, on 20 January 1984, Petitioner was subject to a seventh NJP for a violation of Article 86 due to a one-day period of UA, for which he was also counseled that his lack of attention to duty and poor management of time had resulted in his absence. He was then administratively counseled again, in February 1984, regarding financial responsibility with respect to a debt to the local ABC systems.

h. Petitioner was subject to an eighth NJP on 12 March 1984 for two specifications under Article 86 due to two additional periods of UA, to include being absent from a barracks security watch. He also committed an offense under Article 91 by violating an order from a staff sergeant to report to the emergency room.

i. Petitioner was subsequently counseled that his reenlistment eligibility had been reviewed, in light of his 1 August 1984 end of active service date, and that he had been found ineligible for reenlistment due to his history of eight NJPs. He was formally notified the same day that he was being processed for administrative separation by reason of misconduct due to a pattern of misconduct, referencing his eight NJPs. The recommendation for Petitioner's administrative discharge under Other Than Honorable (OTH) conditions was likewise forwarded with the comment that he did "not possess the motivation or desire to become a productive Marine" and was strongly recommended to be "discharged as quickly as possible."

j. On 16 April 1984, Petitioner was tried by Summary Court Martial (SCM). Only the legal sufficiency review of the proceedings and release from confinement on 24 April 1984 were preserved in his service record, without reference to the UCMJ Articles of his offenses.

k. A forwarding endorsement amended the factual basis of eight NJPs to include one SCM but did not further elaborate. Petitioner's separation was approved by [REDACTED], on 9 May 1984, with no further discussion. Petitioner was discharged with an OTH, on 11 May 1984, with 3.9 and 3.6, respectively, as his average proficiency and conduct marks in his enlistment.

l. Petitioner, through counsel, contends that he incurred post-traumatic stress disorder (PTSD) following his deployment in Beirut due to the attack on the Marine Barracks, which included members of multiple members of his platoon, and the aftermath of searching for survivors. He attributes his non-violent, non-premeditated misconduct after his deployment to PTSD and believes that, when considered together with his post-discharge character, the combination of liberal consideration and clemency warrant an upgrade of his discharge.

m. In support of his contentions, he submitted a witness statement regarding the traumatic event which he believes triggered his PTSD, his Disability Benefits Questionnaire from the Department of Veterans Affairs (VA), a personal affidavit, and a character reference from his employer, who is the [REDACTED]

n. Petitioner's employer describes that he was initially a job counselor for the program and has been promoted as a shift supervisor for their Homeless Veteran Reintegration Program. She also attests that Petitioner volunteers with their mentoring program, fresh food delivery service, and agency supported community initiatives. Petitioner's rebuttal to the AO also included

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certificates of recognition for his volunteer services and as employee of the quarter, awarded in October of 2022.

o. The witness statement provide by a Marine who served with Petitioner in [REDACTED] describes the environment they experienced mission as well as identifying that Petitioner was “one of only four of the sixteen Dragons that had been attached to our unit not to perish in the dreadful blast.” He writes that, when they returned stateside, the loss was evident by the many empty racks during the transit home.

p. Because Petitioner contends a mental health condition, the Board also requested enclosure (2), the AO. The AO stated in pertinent part:

The Petitioner submitted VA Disability and Benefits Questionnaire (DBQ) dated May 2017 indicating a diagnosis of PTSD due to combat. The DBQ is consistent with the Petitioner’s anecdote of several kinetic and traumatizing events that occurred during his deployment. He submitted one character reference. He also submitted a chart review and psychological testing conducted by a psychologist dated June 2021. According to the chart review, the psychologist diagnosed the Petitioner with PTSD. The results of the psychological testing could not be interpreted due to an invalid profile yielded by inconsistent responses by the Petitioner. There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He submitted evidence of post-service diagnosis of PTSD by two different sources. Of the seven NJP’s the Petitioner earned, six of them occurred prior to his deployment. His DD214 notes discharge due to “pattern of misconduct,” which indicates the decision was based upon the sum total of his misconduct, not just the UA that occurred post-deployment.

The AO concluded, “it is my considered clinical opinion there is sufficient evidence of a mental health condition (PTSD) that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to his PTSD.”

q. Petitioner submitted a rebuttal to the AO in which counsel expanded his initial presentation of clemency matters and argued, while the NJPs before the deployment were not trivial, it is clear that the misconduct which led to Petitioner’s discharge is mitigated by his PTSD.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner’s request warrants partial relief. The Board reviewed the application under the guidance provided in references (b) through (e).

In this regard, the Board noted Petitioner’s misconduct and does not condone it. However, the Board concurred with the AO that Petitioner present credible evidence of both his traumatic

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experience and his diagnosis of PTSD. The Board noted from Petitioner's service records that he managed to avoid misconduct during his deployment, after being warned of his potential separation, until experiencing the tragic events which occurred during the bombing of the Marine barracks in Beirut. Although the Board could not conclusively identify the final misconduct which occurred to result in Petitioner's SCM during his administrative separation processing, the Board found that this misconduct could not have been sufficiently serious to warrant a punitive discharge, given the forum chosen for the offense as well as brevity of his period of confinement. The Board likewise observed that his misconduct was not such a departure from his previous minor misconduct as to warrant further discussion or elaboration in any of his discharge endorsements, beyond the fact that his SCM had occurred. Additionally, the Board favorably considered his evidence of post-discharge rehabilitation and character, specifically in that Petitioner appears to have devoted himself to assisting struggling members of society in rebuilding their lives through his career choice, volunteerism, and mentorship. As a result, the Board found that the totality of favorable matters in support of clemency as well as the mitigating effect of Petitioner's traumatic experience and resulting PTSD substantially outweighed the multiple instances of minor misconduct which resulted in Petitioner's administrative discharge. Accordingly, the Board determined that it is in the interest of justice to grant partial relief with respect to Petitioner's characterization of service and his narrative reason for separation. Notwithstanding the recommended corrective action below, the Board found no error or injustice in his "RE-4" reentry code, which appears to have properly assessed his fitness for reenlistment or continued service at the time of his discharge.

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 11 May 1984, his "Honorable" discharge was issued under the authority of "MARCORSEPMAN par 6214" for the narrative reason of "Secretary of the Navy Plenary Authority" with a separation code of "JFF1."

That Petitioner be issued an Honorable Discharge certificate.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/18/2024

