



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

█  
Docket No. 7791-23

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █

█ 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 upgraded to General (Under Honorable Conditions) 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 26 April 1995 after admitting to pre-service marijuana use.

d. On 10 April 1996, Petitioner was issued an administrative remarks (Page 11) counseling concerning deficiencies in his performance and/or conduct, specifically his failure to be at his

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

appointed place of duty on time. On 25 September 1996, Petitioner was issued a Page 11 counseling for driving with a suspended license and was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 17 December 1996, Petitioner was issued a Certificate of Commendation. On 14 March 1997, Petitioner was issued a Page 11 counseling for failure to maintain standards, lack of initiative, and need for constant supervision.

e. On 1 August 1997, Petitioner received non-judicial punishment (NJP) for wrongful use of marijuana.

f. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relied on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, presumed that they have properly discharged their official duties. Based on the information contained on Petitioner's DD Form 214, he was separated on 17 October 1997 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, his narrative reason for separation is "Drug Abuse (Board Waived)," his reentry code is "RE-4," and his separation code is "HKK1," which corresponds to "Misconduct - Drug Abuse (admin discharge board required but waived)."

g. Petitioner stated that he takes full responsibility for his actions and then contends that, at the time of the incident, he was dealing with emotions that caused him to make an immature decision. He contends that his wife left him while he was on deployment (without paying any bills for months), he became depressed and started drinking heavily, and "was impaired in [his] judgement and made the mistake of smoking marijuana for the first time." He also contends that he was suffering from anxiety attacks and post-surgery knee pain.

h. The Board noted that Petitioner checked the "Mental Health" box on his application but chose not to respond to the 22 September 2023 letter from the Board requesting evidence in support of his claim. For purposes of clemency and equity consideration, the Board considered Petitioner's statement, advocacy letters, Associate's and Bachelor's Degree Certificates, and professional awards and 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.

The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse. However, the Board reviewed Petitioner's application under the guidance provided in reference (b).

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

the circumstances and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "Honorable" with associated changes to his record to reflect a "Secretarial Authority" discharge. In making this determination, the Board considered the evidence Petitioner submitted that documented his post-discharge good character and successful employment with [REDACTED]. Further, the Board took into consideration Petitioner otherwise clean record during his two years and five months of active duty service.

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

#### RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 17 October 1997, indicating his character of service as "Honorable," Separation Authority as "MARCORSEPMAN 6214," separation code as "JFF1," narrative reason for separation as "Secretarial Authority," and reenlistment code as "RE-1A".

That Petitioner be issued an Honorable Discharge Certificate.

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.

1/9/2024

