



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

██████████
Docket No. 1596-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Naval record (excerpts)

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 correction to his social security number (SSN) on his DD Form 214 and upgrade his characterization of service. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error on 17 July 2024 and, pursuant to its regulations, determined that the 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 service records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error 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 U.S. Marine Corps and began a period of active duty on 23 June 1969. He was discharged on 12 December 1972 with an Other Than Honorable (OTH) characterization of service.

d. Unfortunately, some documents pertinent to Petitioner's misconduct and administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged

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their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Marine Corps on 12 December 1972 with an Other Than Honorable (OTH) characterization of service, narrative reason for separation is "Unfitness: Frequent Involvement," and reenlistment code is "RE-3D." During his period of service, the middle two digits of his SSN were listed as "[REDACTED]" on all his official documents.

e. Petitioner provided his Social Security card that lists the middle two digits as "[REDACTED]."

f. Petitioner contends he was awarded the Purple Heart, but was awarded a severe discharge characterization permitted under military law, which has affected the trajectory of his life. He further contends that he received the Purple Heart after eight men stepped on a 50 pound land mine that detonated and killed all but him, after being discharged from the hospital he went home to his parents' house because no one told him where to go or what to do and no one picked him up and the military police showed up and took him into custody, he reported medical issues and was only given aspirin and ordered back to work, he purchased a marijuana joint and it helped him with the pain, and he never was court-martialed for the two violations of the UCMJ for possession of marijuana and LSD. Petitioner also contends he suffers from lung cancer and requires benefits. Additionally, Petitioner checked the "PTSD," "TBI," and "Other Mental Health" boxes on his application but did not provide evidence in support of his claims. For purposes of clemency and equity consideration, the Board noted Petitioner provided medical documents substantiating his cancer diagnosis.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board determined that the Petitioner's record warrants relief. The Board noted Petitioner provided sufficient documentation in his request to support the requested changes to his DD Form 214. After reviewing the evidence, the Board determined it was in the interests of justice to grant the change to his SSN.

Additionally, the Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct. The Petitioner's OMPF does not contain the documents pertaining to the misconduct that led to his discharge. Notwithstanding, the Board relied on a presumption of regularity to support the official actions of the Petitioner's discharge. However, while the Board does not condone the misconduct that Petitioner admitted to in his contentions, it concluded clemency is appropriate in his case. The Board considered his service in Vietnam, his injuries he sustained while in Vietnam, and concluded that the Petitioner's misconduct occurred after his return from Vietnam. The Board also took into consideration the Petitioner's contention he was still dealing with medical issues from his injuries and self-medicated because the aspirin he was prescribed was not helping. Therefore, the Board determined the interests of justice are served by upgrading his characterization of service to General (Under Honorable Conditions) (GEN). Further, although not specifically requested by the Petitioner and based on the same rationale for upgrading Petitioner's character of service, the Board also determined that Petitioner's narrative reason for separation, separation authority, and separation code should be changed to reflect a Secretarial Authority discharge.

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

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 12 December 1972, his social security number was "[REDACTED]", his characterization is "General (Under Honorable Conditions)," his discharge was issued under the authority of "MARCORSEPMAN par 6214," his narrative reason was "Secretarial Authority," and his separation code was "JFF1."

No other changes to his record are required.

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.

7/26/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]