



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

█
Docket No. 1859-24
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 w/enclosures
 - (2) Record of Conviction by Court-Martial (1070), 4 October 2013
 - (3) CO, █, 1910 S-1 Memo, subj: Notification of Separation Proceedings, 4 November 2013
 - (4) CO, █ 1910 S-1 Memo, subj: Recommendation for Administrative Discharge of [Petitioner], 31 January 2014
 - (5) CO, █, 1910 Memo, subj: Recommendation for Administrative Discharge of [Petitioner], 31 January 2014
 - (6) SJA, █, 1910 SJA Memo, subj: Recommendation for Administrative Discharge of [Petitioner], 19 February 2014
 - (7) CG, █, Memo, subj: Recommendation for Administrative Discharge of [Petitioner], 21 February 2014
 - (8) Certificate of Release or Discharge from Active Duty (DD Form 214)

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 of the “conditions of [his] discharge” and removal of any reference to “drug abuse.”

2. The Board, consisting of █, █, and █, reviewed Petitioner’s allegations of error and injustice on 11 April 2024, and pursuant to its regulations, determined 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 Petitioner’s 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy. Although Petitioner’s application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. On 4 October 2013, a summary court-martial (SCM) found Petitioner guilty of larceny of private funds. On 4 November 2013, Commanding Officer (CO), █,

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notified Petitioner that he was being processed for administrative separation with an Other Than Honorable (OTH) characterization by reason of misconduct due to commission of a serious offense. See enclosures (2) and (3).

c. On 31 January 2014, CO, [REDACTED], recommended separation with an OTH characterization by reason of commission of a serious offense. By his endorsement of 31 January 2014, CO, [REDACTED], recommended an OTH characterization. See enclosures (4) and (5).

d. In a memorandum of review, dated 19 February 2014, the Staff Judge Advocate (SJA) provided his recommendation and comment after noting the proceedings were sufficient in law and in fact. He recommended separation with an OTH characterization of service by reason of misconduct due to commission of a serious offense. In paragraph 5 (SJA Comments), the SJA explains Petitioner was found guilty at SCM of larceny of private funds. However, the last two sentences of the unsigned memorandum state "The CO, 3/1 and 1st Mar recommends separation for drug abuse with an OTH. I concur." See enclosure (6).

e. On 21 February 2014, the Separation Authority directed Petitioner be administratively discharged by reason of misconduct, separation code "HKQ-1", with an OTH characterization of service and assigned a reenlistment code of "RE-4." See enclosure (7).

f. On 5 March 2014, Petitioner was discharged with an OTH characterization by reason of misconduct due to commission of a serious offense and assigned a separation code of "HKQ1" and a reentry code of "RE-4." See enclosure (8).

g. Petitioner contends the "false statement of 'drug abuse'" is erroneous. He does not contest the SCM finding and states he understands he is not "deserving of discharge upgrade." However, Petitioner adamantly denies drug use. See enclosure (1).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting partial corrective action. After complete review of Petitioner's administrative separation documentation, the Board determined there is absolutely no discussion of drug use/abuse except by the SJA who erroneously states "the CO, [REDACTED] recommends separation for drug abuse with an OTH."

Notwithstanding the recommended corrective action below, the Board found no basis to change the "conditions" of Petitioner's discharge from the Marine Corps.

RECOMMENDATION

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

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Petitioner's record be corrected by redacting the last two sentences of the SJA Memorandum of Review dated 19 February 2014 (see enclosure 6) which read: "The CO, [REDACTED] recommends separation for drug abuse with an OTH. I concur."

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.

5/8/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]