



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

█  
Docket No. 4141-24  
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, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018.

Encl: (1) DD Form 149 with attachments  
(2) Case summary

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 his discharge be upgraded. Enclosure (2) applies.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 29 April 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 including 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 duty on 21 July 1986. At the time of his enlistment, Petitioner was granted a moral waiver for preservice use of a controlled substance-marijuana. On 30 November 1987, Petitioner was counseled concerning unauthorized use of a government telephone for personal use. Petitioner was advised that failure to take corrective action could result in administrative separation. On 27 April 1988, Petitioner was counseled concerning proper procedures in requesting humanitarian transfer. Petitioner was

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

advised that failure to take corrective action could result in administrative separation. On 21 October 1988, Petitioner received nonjudicial punishment (NJP) for disobeying a lawful order by failing to go and get his helmet and disrespect towards a noncommissioned officer. On 9 March 1989, Petitioner received a second NJP for wrongful use of a controlled substance-cocaine. As a result, he was notified of administrative separation processing for drug abuse. The commanding officer recommended that Petitioner be administratively separated from the Marine Corps with an Other Than Honorable discharge characterization by reason of misconduct due to drug abuse. On 3 May 1989, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. On 16 May 1989, Petitioner was so discharged.

d. Post discharge, Petitioner to the Naval Discharge Review Board (NDRB) for relief. On 22 April 1997, the NDRB denied the Petitioner's request after concluding his discharge was proper as issued.

e. Petitioner contends he was a young Marine who made a mistake during a party with absolutely no memories of what he was accused of doing except for a urine test that was performed. Petitioner requested the Board take into consideration his age and maturity at the time. Post discharge, Petitioner claims he served a s correctional officer with other Marine veterans for a period of 20 years. Petitioner states he have lived with the embarrassment caused by what he allegedly had done.

f. For purposes of clemency and equity consideration, Petitioner provided four advocacy letters that described post-discharge accomplishments and a copy of his certificate of retirement from the State of [REDACTED].

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. Specifically, with regard to Petitioner's request that his discharge be upgraded, the Board noted Petitioner's misconduct and does not condone his actions, which subsequently resulted in an OTH discharge characterization. However, in light of reference (b), after reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be upgraded to General (Under Honorable Conditions). In making this finding, the Board took into consideration Petitioner's post-discharge accomplishments and the nature of his misconduct.

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 concluded Petitioner's narrative reason for separation, separation authority, separation code, and reentry code remain

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

appropriate in light of his record of misconduct. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 16 May 1989, indicating his characterization of service as "General (Under Honorable Conditions)."

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 Regulations, 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.

