



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

██████████  
Docket No. 4154-24  
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo, 3 Sep 14 (Hagel Memo)  
(c) PDUSD Memo, 24 Feb 16 (Carson Memo)  
(d) USD Memo, 25 Aug 17 (Kurta Memo)  
(e) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)  
(4) Advisory Opinion dated 4 September 2024

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Marine Corps filed enclosure (1) with this Board requesting that his Other Than Honorable (OTH) characterization of service be upgraded to Honorable and his narrative reason for separation, separation code, and reentry code be changed to reflect a Secretarial Authority discharge. Enclosures (2) through (4) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 11 December 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, and applicable statutes, regulations, and policies, to include references (b) through (e). Additionally, the Board also considered enclosure (4), an advisory opinion (AO) from a qualified mental health professional. Although Petitioner was provided an opportunity to comment on the AO, he chose not to do so.

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, the statute of limitation was waived in accordance with the Kurta Memo.

c. Petitioner entered active duty with the Marine Corps on 29 December 1978. On 20 November 1979 and 3 December 1979, he received non-judicial punishment (NJP) for unauthorized absence (UA) totaling seven days. On 18 March 1980, he received NJP for two specifications of UA totaling 17 days. On 12 September 1980, he received NJP for disrespect toward a non-commissioned officer (NCO). On 8 June 1981, he commenced on a period of UA that lasted two days. On 14 September 1981, a summary court-martial (SCM) convicted him of disrespect in deportment toward the company 1stSgt. On 14 October 1981, he was formerly counseled on the submission of his misconduct discharge to the commanding general and advised of his right to counsel. Petitioner chose not to make a statement.

d. Unfortunately, not all of the documents pertinent to Petitioner's 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 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 11 December 1981 with an Other Than Honorable (OTH) characterization of service, his narrative reason for separation is "Misconduct-Frequent Involvement," his separation code is "GKA," and his reenlistment code is "RE-4."

e. In his application, Petitioner asserts that he incurred PTSD or a mental health condition during military service. He further contends that his OTH discharge is unjust because his misconduct resulted from his mental health issues, he endured racism while in service, and the length of time since his discharge merits clemency. For the purpose of clemency and equity consideration, Petitioner submitted a legal brief with enclosures.

f. Based on Petitioner's assertion of a PTSD/mental health condition, enclosure (4) was requested and reviewed. It stated in pertinent part:

Petitioner submitted 152 pages of VA records whereby he was treated between 2020 and 2023 in the HUD VASH (Veterans Affairs Supportive Housing) program. It is mentioned in these pages that the veteran carried a diagnosis of Major Depression, however there was no mention as to the rationale for or etiology of the diagnosis provided. He submitted Hagel and Kurta memos as well as four peer-reviewed journal articles in support of his claim. There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental health condition. His statement is not sufficiently detailed to provide a nexus with his misconduct. Furthermore, it is contended that the Petitioner suffers from PTSD, anxiety and depression; however only depression is mentioned in his post-service record, and unfortunately the suspected etiology thereof is not provided. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is sufficient evidence of a mental health condition that is temporally remote to service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

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[REDACTED] USMC

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief.

In keeping with the letter and spirit of the Wilkie Memo, the Board determined that it would be an injustice to continue to characterize Petitioner's characterization of service as OTH. Despite the Board's concurrence with the AO that there is insufficient evidence that Petitioner's misconduct could be attributed to a mental health condition, the Board determined, purely as a matter of clemency and equity, that no useful purpose is served by continuing to characterize the Petitioner's service as having been under OTH conditions and re-characterization to a General (Under Honorable Conditions) is now more appropriate. Although the Board does not condone Petitioner's misconduct and found no error with his NJPs, SCM, or administrative separation, it considered the relatively minor nature of his misconduct and determined the assignment of an OTH was overly harsh. Based on the same rationale, the Board also determined it was in the interests of justice to change Petitioner's narrative reason for separation to Secretarial Authority with associated changes to his SPD code, separation authority, and reentry code.

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, even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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) that shows that, on 11 December 1981, his characterization of service was "General (Under Honorable Conditions)," a Narrative Reason for Separation of "Secretarial Authority," SPD code of "JFF1," separation authority of "MARCORSEPMAN 6214," and reentry code of "RE-1J.

That no further changes be made to the 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

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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.

1/8/2025

