



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

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Docket No. 4264-24

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) Title 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/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 for an upgrade of his characterization of service.

2. The Board, consisting of ■■■■■, ■■■■■, and ■■■■■, reviewed Petitioner's allegations of error and injustice on 26 June 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, 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. 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. Petitioner enlisted in the Marine Corps and began a period of active duty on 23 August 2000.

c. On 31 October 2002, Petitioner was convicted by a special court-martial (SPCM) of two specifications of unauthorized absence (UA) totaling 96 days and wrongful use of marijuana. As punishment, Petitioner was sentenced to confinement, forfeiture of pay, reduction in rank, and a Bad Conduct Discharge (BCD). Ultimately, the BCD was approved at all levels of review and, on 30 January 2004, Petitioner was so discharged.

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d. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied Petitioner's request for an upgrade, on 27 August 2019, based on their determination that Petitioner's discharge was proper as issued.

e. Petitioner contends that through his life experiences, revelations, prayers, and a will to change, his life is the total opposite of what it was 20 plus years ago. He has been able to take the life lessons learned and his discharge and use it as fuel to motivate himself to mentor others and help them see the big picture and the lingering effects of wrong decisions.

f. For purposes of clemency and equity consideration, the Board considered the supporting documentation Petitioner provided in support of his application including approximately 63 character references.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants relief in the interests of justice.

The Board found no error or injustice in Petitioner's BCD. Petitioner pleaded guilty to significant criminal offenses for which a punitive discharge and significant confinement was warranted. No procedural defects in this execution of this discharge were evidenced or claimed by Petitioner.

However, the Board reviewed Petitioner's application under the guidance provided in reference (b). In this regard, the Board considered, among other factors, letters of support provided by Petitioner, Petitioner's immaturity at the time of his misconduct, Petitioner's demonstrated remorse for his actions, Petitioner's proactive efforts to atone for his mistake, and the passage of time since Petitioner's discharge. Based upon these mitigating factors, the Board found that clemency is warranted in the form of an upgrade of his characterization of service to General (Under Honorable Conditions) (GEN).

While finding clemency to be warranted under the circumstances, 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 those certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record, and that a GEN discharge characterization and no higher was appropriate.

Further, the Board determined Petitioner's narrative reason for separation, separation authority, separation code, and reentry code remain appropriate in light of his misconduct and unsuitability for further military service. Ultimately, the Board concluded 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

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Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 30 January 2004, Petitioner's character of service was "General (Under Honorable Conditions)."

That no further changes be made to Petitioner's record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

7/9/2024

