



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

█
Docket No. 5126-24
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) Title 10 U.S.C. § 1552
(b) Official Military Personnel Folder (OMPF)

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting a change to what he refers to as a “dishonorable discharge” to a medical discharge.
2. The Board, consisting of █, █, and █, reviewed Petitioner’s allegations of error and injustice on 29 August 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 Petitioner’s application, enclosure (1), together with all material submitted in support thereof, relevant portions of Petitioner’s naval record, 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, 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 waived the statute of limitations and considered the case on its merits in the interest of justice.
 - b. A review of Petitioner’s reference (b) OMPF reveals that Petitioner enlisted in the Marine Corps and commenced a period of active duty on 26 September 2007. While he was in recruit training, a “stop order” was issued for Petitioner due to a diagnosis of Seizure Disorder by History, Auditory Processing Disorder, Existing Prior to Entry, Rule Out Attention Deficit Disorder, Existing Prior to Entry. Thereafter, on 7 November 2007, was discharged due to fraudulent enlistment with an uncharacterized discharge. The Board notes that the complete administrative separation documentation does not appear to be within reference (b); however, it appeared to the Board that the rationale for designating Petitioner’s reason for separation as “fraudulent” was because Petitioner presumably did not reveal his preexisting medical conditions. During his service Petitioner was never assigned a Military Occupational Specialty (MOS).

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c. In support of his request, Petitioner provided a copy of a letter dated 12 October 2007 from his mother to a Marine Corps representative, which was during the time that he was still in service. The letter described that Petitioner was substantially disabled and had been disabled his entire life due to a variety of conditions, including that he had a learning disability.

CONCLUSION

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

The Board initially observed that Petitioner did not receive a dishonorable discharge, which is a form of punitive discharge that can only be awarded as a result of a conviction by a general court-martial for the most serious of crimes. The Board did observe, however, that describing Petitioner's narrative reason for separation in his Certificate of Discharge or Release from Active Duty (DD Form 214) as "fraudulent" may cause stigma in his daily life and determined it was unjust. In its review of the entirety of the available documentation, the Board found the letter from Petitioner's mother to the Marine Corps to be persuasive. Specifically, the Board found sufficient evidence that Petitioner had learning disabilities, among other conditions, prior to his enlistment in the Marine Corps. Thus, the Board found that it was unjust to characterize Petitioner's effort to enlist in the Marine Corps and serve his country as fraudulent when it appears that his limiting disabilities either were readily apparent, or should have been readily apparent, to Marine Corps personnel prior to his entry into service. Therefore, the Board determined it was in the interests of justice to change Petitioner's reason for separation to Secretarial Authority.

Notwithstanding the recommended corrective action below, to the extent Petitioner's requested relief could be interpreted to mean that he seeks a service disability retirement, the Board determined that there was insufficient evidence that Petitioner's preexisting condition(s) were, or could be considered, unfitting conditions within the meaning of the service Disability Evaluation System. Accordingly, the Board denied Petitioner's petition to the extent it requested this form of relief.

Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his disqualifying preexisting medical condition.

RECOMMENDATION

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

Petitioner shall be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 7 November 2007, indicating the narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF1," and the separation authority was "MARCORPSEPMAN 6214."

That no further relief be granted.

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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.

9/25/2024

[REDACTED]