



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

██████████
Docket No. 5327-24
Ref: Signature Date

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

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

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) requesting his character of service be upgraded to Honorable, his separation code be changed to "MGC Early Release – other," that his record "be made whole," and that he be allowed to use his GI Bill and receive benefits. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 24 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, and 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.

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 service on 28 April 1989.

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d. On 24 October 1989, Petitioner received non-judicial punishment (NJP) for an orders violation by being in an unauthorized area. As punishment he was reduced to paygrade E1, restricted with extra duties for 45 days, and made to forfeit \$391 pay per month for two months.

e. On 2 January 1990, Petitioner was counseled for deficiencies in his performance, attitude, and personal appearance.

f. On 4 February 1990, Petitioner's official medical record reflects an entry stating he was considered to be a poor candidate for in-service Level III Alcohol Treatment due to a "high probability of poor compliance and cooperation." The entry further included the recommendation the Marine Corps proceed with administrative discharge of the Petitioner.

g. On 8 May 1990, Petitioner again received NJP for an orders violation by being in an unauthorized area. As punishment he was restricted with extra duties for 45 days and made to forfeit \$350 pay per month for two months.

h. On 9 January 1991, Petitioner received NJP for an orders violation by having unauthorized alcohol in his room and consuming alcohol while in a watch status. He was additionally drunk and disorderly at the enlisted club. As punishment he was reduced to paygrade E1, restricted with extra duties for 45 days, and made to forfeit \$300 pay per months for two months.

i. On 29 January 1991, Petitioner was notified of pending administrative separation processing with a General (GEN) discharge by reason of Convenience of the Government, for Personality Disorder. He consulted with counsel but declined to provide a statement. Ultimately, he was discharged on 22 March 1991.

j. BCNR previously considered and denied Petitioner's request for a discharge upgrade on 20 May 1998.

k. Petitioner contends he was wrongfully accused of drawing a cartoon depicting a suicide, was accused of being a liar by his Lieutenant, and sent to see a psychiatrist who had no interest in him or his situation. He further contends he was never informed of any charges against him, an investigation was never performed, he was never advised of his rights under the UCMJ, and never afforded the right to speak to a lawyer. He states, as evidenced by item 23 on his DD Form 214 and updates to MARCORSEPMAN Par 6203.3, that procedures should have been followed in his case which were not. He states the VA will not recognize a diagnosis of "personality disorder," and that the command used Personality Disorder to discharge him, but he was never informed of the diagnosis or findings reported by the psychiatrist. He says he was treated unjustly and his rights as a Marine were violated. He was not allowed to use his GI Bill, was turned down for VA healthcare and all other benefits, and no one ever told him he could apply for a discharge upgrade to correct—which he feels was a grave injustice. He lastly contends he was a good Marine, graduating at the top of his class, doing every duty assigned to the best of his ability, and receiving a certificate of commendation from the Commander the day before he was accused of drawing a picture he did not draw. For purposes

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of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. In keeping with the letter and spirit of reference (b), the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and personality disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214. In making this finding, the Board found no error or injustice with Petitioner's personality disorder diagnosis or administrative separation based on the diagnosis. The Board was not persuaded by Petitioner's due process arguments and relied on the presumption of regularity raised by his administrative separation documentation.

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, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Specifically, the Board considered that Petitioner received three NJPs in less than two years of active service. Finally, the Board determined Petitioner's reentry code remain appropriate based on his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the following recommended corrective action.

Regarding Petitioner's request to utilize his Department of Veterans Affairs GI Bill benefits, the Board determined this request was outside the scope of their authority. The Board determined that eligibility for GI Bill benefits falls under the statutory authority of the Department of Veterans Affairs.

RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 22 March 1991, indicating that the narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF1," and the separation authority was "MARCORPSEPMAN 6214."

That no further changes be made to Petitioner's 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

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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.

7/25/2024

[REDACTED]