



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

██████████  
Docket No. 5379-24  
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) 10 U.S.C. §1552  
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

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 an upgrade to his "Other than Honorable" characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) and (2) applies.

2. The Board consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 28 June 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. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 15 October 1996. On 21 July 1998, Petitioner received nonjudicial punishment (NJP) for wrongful use of a controlled substance-marijuana. On 4 August 1998, Petitioner was evaluated by a substance abuse counselor who determined that he did not meet the criteria for drug abuse dependency. On 12 August 1998, Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, he decided to waive his procedural rights. Subsequently, the Petitioner's commanding officer recommended that he be

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administratively separated from the Marine Corps with an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to drug abuse. The separation authority approved the recommendation and, on 15 September 1998, Petitioner was so discharged.

d. Petitioner contends his discharge was unjustified as he was not able to seek assistance and counseling. Petitioner did not understand what he did wrong, and he claims he was young and immature. Petitioner states he enjoyed serving in the USMC and wish he could have made it a career. Petitioner contends there is new legislation that authorize the change. In his statement Petitioner provided information about the circumstances of his life, including what led to his drug abuse. He is seeking an upgrade because this isolated incident does not describe his true character. Petitioner states he is an honorable man that tries to uphold his family, community, church, and friends. For purposes of clemency and equity consideration, Petitioner provided copies of character letters, Certificates of Ordination, and a Certificate of License.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants full 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 Other Than Honorable discharge characterization. However, in light of references (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 considered the mitigation evidence Petitioner provided which included his post-discharge accomplishments and character letters.

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. Additionally, the Board determined Petitioner's narrative reason for separation, separation authority, separation code, and reentry code remains appropriate based on his record of misconduct. 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 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 15 September 1998, indicating his character of service as "General (Under Honorable Conditions."

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That 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.

7/20/2024

