



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

██████████
Docket No. 5477-24
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 w/ enclosures

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 that his discharge be upgraded to "Honorable." Enclosure (1) applies.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 15 November 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 7 April 1982.

c. On 24 November 1982, Petitioner accepted nonjudicial punishment (NJP) for single a violation of the Uniform Code of Military Justice (UCMJ) under Article 121 for stealing a camera from a lance corporal.

d. On 16 March 1984, Petitioner received a substance abuse evaluation following a positive urinalysis for marijuana use. During his evaluation, he reported continuous daily use of marijuana beginning at age 13, which he had discontinued upon entering active duty until

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returning to drug use in October 1983. He was evaluated as displaying an inability to accept responsibility for his behavior and failures, as using a delusional system to justify and rationalize his behavior, and as expressing no remorse or desire to discontinue his drug use. He was also described as having a laissez faire attitude regarding his "decision to leave" the Marine Corps.

e. Petitioner received a second NJP, on 16 March 1984, for UCMJ violation of Articles 86, for failure to go at the time prescribed to platoon drill practice, and of Article 134, for two specifications, respectively, of wrongful use and wrongful possession of marijuana.

f. Consequently, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse with a recommendation that he be discharged under Other Than Honorable (OTH) conditions. After consulting legal counsel, he elected to waive his right to a hearing before an administrative separation board. The recommendation for his discharge under OTH conditions was approved on 7 May 1984. However, on 15 May 1984, after his discharge under OTH conditions had already been approved, he submitted a request for a hearing before an administrative separation board.

g. In a memorandum dated 16 May 1984, the Staff Judge Advocate reviewed the request for reconsideration of his waiver and advised the Commanding General, Marine Corps Recruit Depot / [REDACTED] [REDACTED], that:

"the respondent may change his waiver at any point prior to the discharge authority taking final action. Once the discharge authority has taken final action, the discharge authority is not bound by regulation to honor any subsequent change in the initial waiver of rights unless the respondent can show that an impropriety existed when the original waiver of rights was initiated. ... It appears from the request submitted by the respondent that no improprieties did exist and the original waiver should stand, as well as, your action taken in this case."

h. In his endorsement to Petitioner's request for an administrative discharge board, CG, [REDACTED], directed that he be discharged on 16 May 1984 in accordance with his previous decision. Petitioner was discharged accordingly.

i. Petitioner contends that he grew up poor, in a volatile and abusive environment, which caused him to struggle with alcohol and marijuana use as a result, both prior to his entry to active duty as well as eventually during his military service. He states that he is deeply remorseful about his misconduct but has, since his discharge, achieved and maintained sobriety, has remained a law abiding citizen, and has turned his life around. He has spent the past 40 years bettering his life and submits a personal statement with six character letters.

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CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in reference (b) intended to be covered by this policy.

In this regard, the Board noted Petitioner's misconduct and does not condone it; however, the Board favorably considered relevant clemency factors in accordance with reference (b), to include his overall service record, the severity of his misconduct, his youth and immaturity at the time of his misconduct, and his evidence of post-discharge rehabilitation with respect to his drug abuse and the underlying circumstances of that disorder. As a result, the Board found that the totality of favorable matters in support of clemency outweighed the drug abuse misconduct which resulted in Petitioner's administrative discharge sufficiently to merit his characterization of service as having been under OTH conditions. Accordingly, the Board determined that it is in the interest of justice to grant partial relief in the form of upgrading Petitioner's characterization of service to General (Under Honorable Conditions) and changing his basis for separation to reflect a Secretarial Authority discharge.

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 and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate.

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) indicating that, for the period ending 16 May 1984, he was discharged with a "General (Under Honorable Conditions)" characterization of service, under the authority of "MARCORSEPMAN par 6214," with a narrative reason for separation of "Secretary of the Navy Plenary Authority," a separation code of "JFF1," and a "RE-1J" reentry code.

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.

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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.

12/11/2024

[REDACTED]