



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

■  
Docket No. 6243-24

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)  
(c) USECDEF Memo of 25 Aug 17 (Kurta Memo)  
(d) SECDEF Memo of 13 Sep 14 (Hagel Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)  
(4) Advisory Opinion of 24 Oct 24

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) requesting corrections to his Service Record and Certificate of Release or Discharge from Active Duty (DD Form 214), to include upgrading his characterization of service, correcting a discrepancy with his Social Security number (SSN), and removing derogatory or incorrect information in his service record. Enclosures (1) through (3) apply.

2. The Board, consisting of ■, ■, and ■, reviewed Petitioner's allegations of error and injustice on 9 December 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 references (b) through (d). Additionally, the Board also considered enclosure (4), the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner. Although Petitioner was afforded an opportunity to submit a rebuttal, he chose not to do so.

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.

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b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

c. Petitioner enlisted in the Marine Corps and began a period of active service on 30 August 1976.

d. On 13 October 1976, Petitioner received non-judicial punishment (NJP) for disobeying a lawful order from a superior commissioned officer by refusing to participate in recruit training. On 16 February 1977, Petitioner was dropped from Administrative Clerk training for lack of motivation. On 20 February 1977, Petitioner commenced a period of unauthorized absence (UA) that ended in his surrender on 24 March 1977. On 30 March 1977, Petitioner received NJP for the thirty-two-day period of UA. On 3 June 1977, Petitioner commenced a period of UA that ended in his surrender on 9 June 1977. On 22 June 1977, Petitioner was granted Drug exemption for use of marijuana, cocaine, Lysergic acid diethylamide (LSD), and Barbiturates. On 5 July 1977, Petitioner received NJP for UA from 3 June 1977 to 9 June 1977 and for failure to go to appointed place of duty on 14 June 1977. The same day, Petitioner commenced a twenty-day period of UA. On 8 August 1977, Petitioner received NJP for the twenty-day period of UA.

e. Between 15 August 1977 and 23 August 1977, Petitioner was UA on three separate occasions totaling three days and 16 hours. Petitioner was arraigned on charges of UA and larceny on 7 September 1977. On 23 September 1977, Petitioner was admitted to the hospital for observation after he shot at an unknown object while on guard duty and became hysterical. He was discharged the following day. On 30 September 1977, Petitioner commenced a twenty-one-day period of UA. On 20 October 1977, Petitioner was found guilty at Special Court Martial (SPCM) of two specifications of UA (21 to 22 August 1977 and 22 to 23 August 1977) and larceny for stealing twenty dollars from a Private First Class. He was sentenced of forfeitures, confinement at hard labor, and a Bad Conduct Discharge (BCD). On 6 December 1977, Petitioner was given a psychiatric evaluation for appellate leave and found to have no signs of anxiety, neurosis, or psychosis. Subsequently, the findings and sentence in Petitioner's SPCM were affirmed and he was issued a BCD on 28 November 1978.

f. Petitioner contends he went UA because he was denied leave after his mother was diagnosed with stage IV cancer and he suffered a back injury in bootcamp. Petitioner further contends that he was issued two similar SSNs; his in-service SSN's third digit is a [REDACTED] and his new SSN's third digit is a [REDACTED]. Petitioner also contends that his service record contains errors involving his religion and drug use. Petitioner provided a copy of his Department of Veterans Affairs (VA) claim. For the purpose of clemency and equity, Petitioner did not provide supporting documentation describing post-service accomplishments, advocacy letters, or documentation of a new SSN.

g. As part of the Board's review, the Board considered enclosure (4) and the Petitioner's response. The AO states in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns during military service, which may have contributed to his separation from service.

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Petitioner entered active duty in the US Marine Corps in August 1976. In his pre-service physical, he endorsed "nervous trouble," which was not considered disabling by the examiner.

In June 1977, the Petitioner was granted a drug exemption for use of "marijuana – daily; cocaine – twice weekly; LSD – once; barbiturates – three times weekly...Marijuana: March 1969 to present; Cocaine: October 1970 to May 1976; LSD: June 1971; Barbiturates: June 1972 to Present." He was recommended for drug rehabilitation treatment.

In September 1977, the Petitioner was hospitalized overnight for "hyperventilation and frightened. P[atien]t states while on duty...he noticed an object approaching him. [He ordered it to] halt and fire several rounds. Later he was found lying down frightened. Was brought by ambulance." He was diagnosed with Hysteria.

From September to October 1977, the Petitioner was UA. In October 1977, he was convicted by special court martial of two periods of UA in August totaling two days and theft of \$20. The Petitioner "stated that he was having family problems, his mother has terminal cancer, and he was having problems in his command, he was being charged with stealing twenty dollars which he stated that he did not steal. He says that he was confused and scared so he went UA."

In December 1977, he was evaluated by a military psychiatrist. He reported he "dropped out in 11th grade because school (military) was going bankrupt. Tried civilian school, but couldn't adapt...Impulsively joined Marine Corps c [with] idealistic goals...Has wanted out since romantic difficulties and purpose for joining apparently unrealizable...no signs of any anxiety, neurosis, or psychosis." In June 1978, he was discharged under conditions other than honorable.

Petitioner stated that he incurred mental health and medical concerns after a serious fall sustained in 1977 when he "fell off the rope climb on the obstacle course."

There is evidence that the Petitioner experienced an overnight psychiatric hospitalization while in military service. However, it is difficult to attribute his symptoms to a mental health condition other than substance use disorder, given the reported extensive substance use history pre-service and in-service noted in the record. The Petitioner has provided no medical evidence to support his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms of a condition other than substance use disorder in service or provide a nexus with his misconduct. More weight has been given to his in-service records over current statements of error.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition other than substance use disorder."

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial warrants relief. Specifically, the Board noted that Petitioner's DD Form 214 indicates that Petitioner was discharged on 30 June 1978 and documents ninety-five days of Time Lost. However, Petitioner's BCD was ordered executed on 28 November 1978, one hundred fifty-one days after the date on his DD Form 214, and his Record of time lost does not include Petitioner's post-SPCM confinement. Additionally, the Board noted that the reason indicated in Block 9.c, Authority and Reason, is "JJC2," which corresponds to the Separation Program Designator (SPD) for "Sentence at SPCM – Desertion." Petitioner was not charged with desertion, so this SPD is incorrect and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's BCD. The Board carefully considered all potentially mitigating factors, including enclosure (4), to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (d).

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his SPCM and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the likely negative effect his repeated misconduct had on the good order and discipline of his command. The Board noted Petitioner was given multiple opportunities to address his misconduct but he continued to commit misconduct, including during his SPCM, that led to his BCD. The Board considered Petitioner's contention that he committed UA because he was denied family leave when his mother was diagnosed with cancer. However, the Board was not persuaded by this contention, particularly after considering the Petitioner's history of repeated UA throughout his enlistment. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that may be attributed to military service and insufficient evidence to attribute his misconduct to a mental health condition other than substance use disorder. As explained in the AO, Petitioner provided no medical evidence to support his claims.

The Board also noted that Petitioner did not provide documentation of any of the contended errors in his service record; including his claim of a second SSN. The Board further noted that the SSN documented in Petitioner's official record is evidenced by a copy of his social security card. Consequently, the Board declined to approve changes based on Petitioner's statements alone.

As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. While the Board carefully considered the evidence Petitioner provided in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting him the relief he requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

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

#### RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 30 June 1978, indicating the narrative reason for separation as "Sentence of Special Courts-Martial – other than desertion," SPD Code as "JJD2," and a new effective date of separation as 28 November 1978.

That Headquarters, U.S. Marine Corps review Petitioner's net active service and time lost and make any necessary corrections to the new DD Form 214.

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 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.

1/10/2025

