



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

██████████
Docket No. 6762-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

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

Ref: (a) 10 U.S.C. § 1552

(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

(c) MCO P1900.16 (MARCORSEPMAN)

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 under honorable conditions be upgraded to "Honorable." Enclosure (1) applies.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 30 August 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 references (b) and (c).

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 as a minor with parental consent and began a period of active duty on 12 November 1968.

c. From 4 May 1969 through 28 July 1970, Petitioner deployed to the Republic of ██████████ where he participated in operations against insurgent forces and earned the award of the Cross of Gallantry with palm and frame, the ██████████ Service Medal with one star, and the ██████████ Campaign Medal with device.

d. Following Petitioner's return from his overseas combat deployment, he repeatedly absented himself without authority in violation of Article 86 of the Uniform Code of Military Justice (UCMJ). He received nonjudicial punishment (NJP) for his first period of unauthorized absence (UA), which began 28 December 1968 and ended 4 January 1971, and was reduced in grade to E-3, which was suspended for a period of two months.

e. Petitioner received a second NJP, on 13 May 1971, for a second period of UA from 4 May 1971 through 12 May 1971, which resulted in his reduction to the paygrade of E-3 and administrative counseling warning him regarding his unsatisfactory pattern of behavior. He was also formally notified of his personal deficiencies on 19 May 1971.

f. Following Petitioner's third and fourth periods of UA, from 0531 to 1327 on 24 May 1971 and from 28 May 1971 through 2 June 1971, he accepted trial by Summary Court-Martial (SCM). On 10 June 1971, he was found guilty of both specifications under Article 86, although he was found not guilty for a violation under Article 92. Although his sentence included 30 days of correctional custody in addition to an \$80 forfeiture of pay, the convening authority approved only the forfeiture.

g. Consequently, Petitioner was notified of a recommendation for his administrative separation. Consistent with the paragraph of reference (c) under which he was being processed, he was notified that his separation would "be effected with an Honorable or General discharge, as warranted by [his] military record." Additionally, a counseling entry was made in his service record, on 9 July 1971, to document that he was being processed for separation by reason of convenience of the government in accordance with paragraph 6012.1f of reference (c) due to substandard personal behavior.

h. Petitioner's commanding officer recommended that he be administratively separation by reason of convenience of the government due to substandard personal behavior. This letter noted that, although his duty and conduct were excellent from the time he entered service in November of 1968 through January 1971, his proficiency and conduct had begun to deteriorate immediately after he got married in September of 1970 and that he did not have the mental or financial resources to cope with both his marital problems and his Marine Corps duties. He was specifically recommended to be discharged with a characterization of General (Under Honorable Conditions). This recommendation was favorably endorsed and forwarded by Commanding Officer, Marine Air Control Group 38 recommending approval of a General discharge for convenience of the government. Then, Commanding General, 3d Marine Aircraft Wing, recommended approval on 5 August 1971.

i. Petitioner received a psychological evaluation, on 3 August 1971, which diagnosed him with a passive-aggressive personality and noted that his issues were primarily a situational reaction caused by marital stress.

j. The Commandant of the Marine Corps (CMC) approved Petitioner's discharge by reason of Convenience of the Government on 2 September 1971. This correspondence directed that, in

discharging Petitioner, to issue “the type of discharge certificate provided for in [paragraph 6002 of reference (c)]” and to cite the authority of paragraph 6012.1f(4).

k. On 21 September 1971, Petitioner was discharged with a characterization of “under honorable conditions.” At the time of his discharge, his average conduct mark during his enlistment was 4.1 even after accounting for several low conduct marks issued as a result of his reduction and disciplinary actions.

l. Reference (a) specifies in paragraph 6002 that, for the basis of convenience of the government, that commander effecting the discharge will determine the type as Honorable or General based upon the military record of the individual.

m. With respect to determining the appropriateness of characterization as Honorable or General (Under Honorable Conditions), paragraph 6003 further specifies that issuance of an Honorable discharge will normally be contingent upon proper military behavior and proficient performance of duty, but that a Marine will not necessarily be denied an Honorable discharge solely by reason of a specific number of convictions by courts-martial or punishments under the UCMJ. The paragraph further dictates that, “In the case of an E-4 or below, prima facie evidence of proper military behavior and performance of duty justifying the issuance of an honorable discharge will be the possession of a minimum final average conduct mark of 4.0.” For “exceptional cases” wherein a General discharge is recommended in lieu of an Honorable discharge, the commanding officer should forward the recommendation to the CMC for decision.

n. Petitioner contends that he served honorably and has had no issues since his discharge. He believed that his discharge would be automatically upgraded after the passage of time and now requests that it be upgraded. He did not provide any supporting documentation with his request.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner’s request warrants relief. The Board reviewed the application under the guidance provided in references (b) and (c).

In this regard, the Board noted Petitioner’s misconduct and does not condone it; however, the Board found, consistent with paragraph 6002 of reference (c), that the reason for separation of Convenience of the Government directs a discharge of type warranted by service record. The Board further found, consistent with the guidance in paragraph 6003 of reference (c), that Petitioner’s conduct mark of 4.1 constituted prima facie evidence that his military behavior and performance of duty justified the issuance of an Honorable discharge, notwithstanding his two NJPs and SCM for his multiple UA periods. Additionally, the Board observed that, whereas Petitioner’s chain of command had expressly recommended a “general discharge” under honorable conditions, the approval from CMC specified to use the type provided for in paragraph 6002 of reference (c) or, in other words, the type warranted by service record as outlined in the guidance of paragraph 6003 of reference (c).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

As a result, the Board concluded Petitioner's discharge under honorable conditions constituted error warranting correction. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief.

With respect to Petitioner's narrative reason for separation, separation authority, separation code, and reentry code, the Board observed no error and, therefore, found no basis to warrant further changes to Petitioner's discharge.

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, for the period ending 21 September 1971, he was discharged with an "Honorable" characterization of service.

That Petitioner be issued an Honorable Discharge certificate.

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 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.

9/24/2024

[REDACTED]