



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

██████████  
Docket No. 8918-24  
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) Title 10 U.S.C. §1552  
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)  
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)  
(d) USECDEF Memo of 25 Aug 2017 (Kurta Memo)  
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments  
(2) Naval record (excerpts)  
(3) Advisory opinion of 3 Oct 24

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 for an upgrade of his characterization of service to Honorable<sup>1</sup>.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 26 February 2025 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) through (e). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional, and Petitioner's response to the AO.

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 regulation within the Department of the Navy.

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

---

<sup>1</sup> The Board noted that Petitioner indicated on his application that he received a General (Under Honorable Conditions) discharge characterization of service despite evidence to the contrary in his record.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]  
XXX XX [REDACTED] USMC

c. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 17 March 2003. Petitioner admitted to illegal use of marijuana and alcohol abuse while in the Delayed Entry Program (DEP).

d. Petitioner tested positive for marijuana on 27 October 2004. Petitioner was issued a counseling warning, on 29 October 2004, for being involved in an incident where another Marine was assaulted.

e. On 4 November 2004, Petitioner submitted a statement that he had been using drugs on a frequent daily basis and smoking marijuana every day. On 22 November 2004, Petitioner refused evaluation by the medical officer. On 24 November 2004, Petitioner was found guilty at summary court-martial (SCM) for wrongful use of marijuana. Petitioner was sentence to confinement and reduction in rank.

f. Consequently, Petitioner was notified of administrative separation processing for misconduct drug abuse and misconduct pattern of misconduct. Petitioner elected his right to consult with counsel but waived his right to an administrative board.

g. Petitioner again tested positive for marijuana on 3 December 2004. On 21 December 2004, he received non-judicial punishment (NJP), for wrongful use of marijuana. On 2 February 2005, he again refused evaluation by the medical officer.

h. The Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that Petitioner be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation, and Petitioner was so discharged on 9 May 2005.

i. Petitioner's DD Form 214 reflects participation in [REDACTED].

j. Petitioner contends the following injustices warranting relief:

(1) He was diagnosed before leaving the service with PTSD and he would like to be eligible for all Veteran Affairs benefits; and

(2) After returning from Iraq in 2004, he experienced significant combat trauma.

(3) His time in the Marines was exemplary as shown with his many awards and commendations which include the Combat Action Ribbon; and

(4) His motivation for using marijuana at the time was to help manage the increasing distressful symptoms of significant PTSD.

k. For purposes of clemency and equity consideration, the Board noted Petitioner provided a personal statement, two advocacy letters, certificates of accomplishments, and medical documents.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]  
XXX XX [REDACTED] USMC

l. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with enclosure (3), an advisory opinion (AO). The AO stated in pertinent part:

There is evidence that the Petitioner was diagnosed with PTSD and other mental health concerns during military service. His PTSD diagnosis was attributed to his combat deployment. However, it is difficult to attribute the Petitioner's misconduct solely to self-medication of PTSD symptoms. The Petitioner did not follow through on mental health treatment recommendations during service. He also had a history of marijuana use prior to entry into service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is in-service and post service VA evidence of diagnoses of PTSD and another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct solely to PTSD or another mental health condition."

m. Petitioner provided rebuttal evidence to the AO in support of his application. After reviewing the rebuttal evidence, the AO remained unchanged.

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice.

The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct. However, because Petitioner based his claim for relief in whole or in part upon his PTSD, the Board reviewed his application in accordance with the guidance of references (b) through (e).

Accordingly, the Board applied liberal consideration to Petitioner's claimed PTSD, and the effect that it may have had upon his misconduct. In this regard, the Board substantially agreed with the AO that there is in-service and post-service VA evidence of diagnoses of PTSD and another mental health condition that may be attributed to military service.

While the Board does not condone Petitioner's misconduct, it concluded clemency is appropriate in his case. After reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board determined Petitioner's characterization of service should be changed to General (Under Honorable Conditions).

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]  
XXX XX [REDACTED] USMC

aspects of his military record and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate.

Further, the Board concluded that Petitioner's reason for separation, separation authority, separation code, and reentry code remain appropriate in light of Petitioner's record of misconduct. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

#### RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) indicating that, for the period ending 9 May 2005, his characterization of service was "General (Under Honorable Conditions)."

That no further correction action be taken on Petitioner's naval record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

3/17/2025

[REDACTED]  
Executive Director

Signed by: [REDACTED]