



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

██████████
Docket No. 9329-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
██████████ 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 a correction to his date of entry and an upgrade to his discharge characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosure (2) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 25 November 2024 and, pursuant to its regulations, determined 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, 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. Petitioner enlisted in the Marine Corps with a moral waiver and began a period of active duty on 10 November 1982. On 19 November 1984 and 13 February 1985, Petitioner received nonjudicial punishment (NJP) for disrespect towards a noncommissioned officer and wrongful use of a controlled substance-marijuana, respectively. On 27 March 1985, Petitioner was counseled concerning involvement with illegal substances and advice that subsequent violations of the UCMJ or conduct could result in administrative separation. On 9 November 1985,

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

Petitioner was honorably discharged by reason of completion of required active-duty service. Petitioner later reenlisted and, on 4 February 1991, began a second period of active duty. Between 5 January 1993 and 10 November 1999, Petitioner reenlisted and extended his enlistment in four occasions. On 10 November 1999, Petitioner was honorably discharged by reason of immediate reenlistment and commenced another period of active duty service. On 26 June 2000, Petitioner was convicted by summary court martial (SCM) for wrongful use of a controlled substance-marijuana and sentenced to reduction in rank and period of restriction. Consequently, he was processed for administrative separation by reason of misconduct due to drug abuse, at which point he decided to waive his procedural rights. Petitioner's commanding officer recommended that he be administratively separated from the Marine Corps with an Other Than Honorable (OTH). The separation authority approved the recommendation, and Petitioner was so discharged on 15 August 2000.

d. Petitioner contends his record indicates that he was on active duty in the Marine Corps on 4 February 1988 when he was out and reenlisted on 4 February 1991. In addition, he contends his record needs to be corrected consistent with "board proceedings" that determined his service was Honorable. For purposes of clemency and equity consideration, the Board considered the Department of Veterans Affairs decision document provided by Petitioner.

CONCLUSION:

Upon review and consideration of the evidence of record, the Board determined Petitioner's request warrants partial relief. Specifically, the Board determined Petitioner's DD Form 214 does not accurately reflect his date of entry. Further, the Board noted that Petitioner's DD Form 214 does not document his aforementioned period of continuous Honorable service and requires correction.

In regard to the Petitioner's request for a discharge characterization upgrade, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. These included, but were not limited to, his desire for a discharge upgrade and his previously discussed contention.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board observed that Petitioner was aware that drug abuse was strictly prohibited based on his previous NJP for the same offense. Therefore, the Board determined that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not be held accountable for his actions. Finally, the Board noted that

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

[REDACTED] USMC

Petitioner waived his administrative discharge board after he was properly notified of his procedural rights.

As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the discharge upgrade he requested or granting the upgrade as a matter of clemency or equity.

In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

That Petitioner be issued a new DD Form 214, for the period ending 15 August 2000, that reflects the following changes:

Block 12 Record of Service: Petitioner's date of entry be changed to reflect his date of entry as "4 February 1991" vice "4 February 1988." Headquarters, U.S. Marine Corps is authorized to make any necessary administrative changes to Block 12 consistent with the directed change.

Block 18 Remarks section: Add the remark "CONTINUOUS HONORABLE SERVICE FROM "4FEB1991 TO 10NOV1999."

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.

12/30/2024

[REDACTED]