



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

██████████  
Docket No. 9349-24

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)

(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, 4 Feb 25

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps Reserves, filed enclosure (1) requesting upgrade of his discharge to Honorable (HON) and change of his narrative reason for separation and separation code to reflect Secretarial Authority. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 3 March 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, and applicable statutes, regulations, and policies, to include references (b) through (d). Additionally, the Board considered enclosure (4), an advisory opinion (AO) furnished by qualified mental health provider, which was favorable to the Petitioner.

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, the statute of limitation was waived in accordance with the Kurta Memo.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

- c. Petitioner enlisted in the Marine Corps and began a period of active duty on 16 June 1997.
- d. On 28 May 1998, Petitioner received non-judicial punishment (NJP) for disobeying a lawful order not to go outside of bounds during weekend liberty and making a false official statement to a superior non-commissioned officer.
- e. On 17 March 1999, Petitioner was issued an administrative remarks (Page 11) counseling regarding the fact he was not recommended for promotion due to lack of maturity and leadership.
- f. After completing a period of continuous Honorable service, Petitioner immediately reenlisted on 20 October 2000. Petitioner later signed an extension for an additional 14 months of service.
- g. Between 17 September and 2 October 2002, Petitioner participated in [REDACTED]
- h. On 26 March 2001, Petitioner was issued a Page 11 counseling for failure to be at his appointed place of duty.
- i. On 11 June 2002, Petitioner was again issued a Page 11 concerning deficiencies in his performance related to his failure to use a training manual while conducting operation maintenance on a USMC vehicle; resulting in catastrophic failure of transmission and a repair cost of \$14,202.
- j. Beginning on 22 February 2003, while attached to the [REDACTED], Petitioner participated in Operation Enduring Freedom and support Joint Task Force [REDACTED]. He was later awarded the Navy and Marine Corps Achievement Medal (with Combat V) for service as a Light Armored Vehicle Commander from 1 – 6 April 2004.
- k. However, on 19 January 2005, Petitioner tested positive for cocaine. Consequently, he was notified of intended separation by reason of misconduct due to drug abuse. He consulted with legal counsel and waived his remaining rights; but for the right to obtain copies of documents used in the separation process.
- l. On 27 January 2005, while awaiting separation, Petitioner received NJP for his wrongful use of cocaine.
- m. On 31 January 2005, Petitioner's Commanding Officer recommended his separation by reason of misconduct due to drug abuse stating, "At the time of misconduct, [Petitioner] was a Sergeant serving in a leadership billet and was training to become the Company Master Gunner. As a result of his own immaturity and lack of responsibility, his drug abuse resulted not only in adjudication at NJP, but hindered the company's shortfalls in manpower as they were working up for deployment in support of Operation Iraqi Freedom III."
- n. On 2 February 2005, Petitioner was offered, and refused, screening and treatment under the Substance Abuse Rehabilitation Program.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

o. On 8 February 2005, Petitioner was issued supplemental notification of administrative separation processing indicating that, because he was serving in paygrade E-4 or above, he would be administratively reduced to paygrade E-3 as a result of his separation Under Other than Honorable (OTH) Conditions.

p. The Commanding General directed Petitioner's discharge and Petitioner was so discharged on 28 February 2005. Petitioner's DD Form 214 did not annotate his period of continuous Honorable service from 16 June 1997 to 19 October 2000.

f. Petitioner contends corrections should be to his record using liberal consideration due to injustice. He states his discharge was inequitable because his administrative separation failed to take into consideration as a mitigating factor in the conduct that resulted in his OTH discharge, his mental health issue, diagnosed as PTSD, which surfaced after his return from Fallujah, Iraq. For the purposes of clemency and equity consideration, Petitioner provided a legal brief with exhibits, including his personal statement, service record documents, and medical progress notes.

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

There is no evidence that he was diagnosed with a mental health condition in military service, although there is evidence of combat exposure in his service record. Temporally remote to his military service, he has received a diagnosis of PTSD from the VA. It is possible that elevated risk-taking behavior associated with undiagnosed hyperarousal symptoms of PTSD may have contributed to substance use upon return from a combat deployment.

The AO concluded, "it is my clinical opinion that there is post-service evidence from the VA of a diagnosis of PTSD. There is post-service evidence from the Petitioner to attribute the diagnosis of PTSD to military service. There is post-service evidence from the Petitioner to attribute his misconduct to PTSD."

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board reviewed his application under the guidance provided in references (b) through (d).

First, as noted above, the Board observed Petitioner's DD Form 214 did not annotate his period of continuous Honorable service and requires correction.

Second, the Board noted Petitioner's misconduct and does not condone his actions. The Board opined 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. However, the Board's decision is based on the conclusion reached in the AO and as a matter of clemency. From the AO, the Board was able to reasonably conclude that there is post-service evidence from the VA of Petitioner suffering from PTSD, and post-service

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

evidence from Petitioner to attribute his PTSD to military service. The Board also agreed with the AO that elevated risk-taking behavior associated with undiagnosed hyperarousal symptoms of PTSD may have contributed to Petitioner's substance use upon return from a combat deployment. Thus, after carefully considering all the evidence, the Board felt that Petitioner's mental health condition should mitigate the misconduct he committed, since this condition outweighed the severity of his misconduct.

The Board additionally considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (b). After reviewing the record holistically, and given the totality of the circumstances, and as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "General (Under Honorable Conditions)," (GEN). In making this determination, the Board considered the evidence provided by Petitioner, in his personal statement, concerning his struggles post-discharge, in addition to the medical information he provided. Lastly, the Board noted, Petitioner is a decorated combat veteran and deserving of this measure of clemency.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an HON discharge or change of Petitioner's narrative reason for separation. The Board determined that an HON 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—specifically his use of cocaine—outweighed the positive aspects of his military record, even under the liberal consideration standards for mental health conditions, and that a GEN discharge characterization and no higher was appropriate. The Board further determined Petitioner's narrative reason for separation remains an accurate based on his misconduct. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

## RECOMMENDATION

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

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 28 February 2005, his character of service was "General (Under Honorable Conditions)," and that the words "Continuous Honorable service for the period of 16 June 1997 – 19 October 2000" be entered under block 18.

A copy of this report of proceedings will be filed in Petitioner's naval record.

That no further changes be made to Petitioner's 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.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

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.

3/25/2025

