



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

[REDACTED]  
Docket No. 12372-24  
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)  
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)  
(d) USD Memo of 25 Aug 17 (Kurta Memo)  
(e) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures  
(2) Advisory Opinion (AO) of 29 Apr 25

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 punitive discharge be upgraded and that his reentry code be changed to "RE-1." Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 July 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). Additionally, the Board considered enclosure (2); an advisory opinion (AO) furnished by qualified mental health provider. 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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 16 August 1981.

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c. On 15 January 1986 Petitioner was honorably discharged from active duty into the Marine Corps Reserve after completing his required active duty service. He was issued a Certificate of Release or Discharge (DD Form 214) for this period of service.

d. Petitioner reenlisted and returned to active duty on 26 February 1988.

e. Petitioner participated in a noncombatant evacuation (NEO) of the [REDACTED] in [REDACTED], from 3-11 January 1991. He then served in support of [REDACTED] [REDACTED] from 17 January 1991 through 19 April 1991; during which he was awarded a Combat Action Ribbon (CAR).

f. Petitioner reenlisted again in November 1991. His official military personnel file (OMPF) indicates that, during this enlistment, he received his fourth award of the Good Conduct Medal. On 10 May 1996, Petitioner reenlisted for his last period of active duty.

g. On 4 June 1998, Petitioner was tried and convicted by Special Court-Martial (SPCM) for a single charge and specification under Article 112a of the Uniform Code of Military Justice (UCMJ) due to wrongful use of methamphetamine. He was sentenced to 40 days of confinement and reduction to the paygrade of E-5.

h. Consequently, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse and requested a hearing before an administrative separation board.

i. On 12 November 1998, his hearing convened and the members substantiated the basis of misconduct due to drug abuse. They recommended that he should be separated with an Other Than Honorable (OTH) characterization of service.

j. The recommendation for Petitioner's discharge under OTH conditions was forwarded to the Secretary of the Navy via the Commandant of the Marine Corps (MMSR-3).

k. Petitioner submitted a rebuttal to his proposed separation; stating that he had used methamphetamine with honorable intentions because he was struggling to lose weight due to a degenerative medical disease.

l. The recommendation for Petitioner's discharge was approved and he was so discharged on 26 May 1999. Upon his discharge, he was issued a DD Form 214 that omitted his continuous period of Honorable service from his second and third enlistment periods. It also documented only three awards of the Good Conduct Medal in block 13.

m. Petitioner contends he experienced multiple traumas during his military service which warrant liberal consideration of his misconduct. He notes that he served commendably across multiple periods of enlistment and believes that his discharge was unfair at the time and remains so because he experienced trauma aboard the [REDACTED] ([REDACTED]) when a fire broke out and

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trapped 21 people, he escaped the fire but later had to help remove the bodies and aid the injured, he was not offered counseling after this event but often cried and had nightmares, he deployed to [REDACTED] during his second enlistment and served in combat with a detour for the embassy rescue in [REDACTED], he knew people who died in friendly fire during this time, Marines were discouraged from emotional weakness so he did not seek mental health assistance, and he experienced anger and behavioral changes after his return which caused his wife to leave him due to her concerns for their safety, and she took his children with her. He started struggling physically and had gout, he received steroid injections for his pain, and this caused him to gain weight when combined with heavy drinking. He began self-medicating with pills that he got from [REDACTED] containing amphetamines and developed drug dependency. He continued to struggle with substance abuse after his discharge until completing a 12-step program and seeking psychiatric help through the Department of Veterans Affairs (VA). After he achieved sobriety and mental health care, he and his wife reconciled and remarried. In support of his contentions, he provided his counsel's brief and personal statement but no other evidence.

n. Because Petitioner contends a mental health condition, the Board also requested enclosure (2), the AO, for consideration. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. He stated that he witnessed a fire on board his ship that resulted in 21 lives lost; however, there is no evidence of this event as contained within his service record. He did not submit any medical evidence in support of his claim. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to a mental health condition."

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. Specifically, the Board noted Petitioner's second DD Form 214 does not annotate his period of continuous Honorable service or all his good conduct medals and requires correction.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned characterization of service and reentry code remain appropriate. 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, Petitioner's desire for a discharge upgrade and change to his

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reentry code. In addition, the Board considered the aforementioned discussed contentions from Petitioner.

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 SPCM, 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 noted Petitioner's misconduct was committed as a staff noncommissioned officer with multiple periods of enlistment and with full awareness of the Marine Corps policy regarding illegal drug use. Therefore, the Board was not persuaded by his purportedly "honorable intentions" to merely lose weight. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The Board determined that illegal drug use is contrary to Marine Corps core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. The Board observed that use of controlled substances in any form is still against current Department of Defense regulations and not permitted for recreational use while serving in the military.

Additionally, the Board concurred with the AO that insufficient evidence exists to attribute Petitioner's misconduct to a mental health condition. As explained in the AO, Petitioner provided no medical evidence in support of his claim. Further, he provided no evidence, other than his statement, to substantiate his contentions. 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. Moreover, even if the Board assumed that Petitioner's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge<sup>1</sup>. 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 Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

That a review of Petitioner's awards be conducted to verify his correct entitlement to awards;

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<sup>1</sup> In making this finding, the Board also concluded there was no error or inequity with Petitioner's assigned reentry code in light of his unsuitability for further military service.

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with specific attention the number of Good Conduct Medals he was awarded.

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215) for the period ending 26 May 1999, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 26FEB1988 TO 9MAY1996."

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.

8/5/2025

