



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

■  
Docket No. 298-25  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ■■■■■  
■■■■■ USMCR

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

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, hereinafter referred to as the Board, requesting that his characterization of service be upgraded and have his fraudulent enlistment removed from his record.

2. The Board, consisting of ■■■■■ reviewed Petitioner's allegations of error and injustice on 29 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). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional. Although Petitioner was provided an opportunity to respond to the AO, 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 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.

c. Petitioner enlisted in the Marine Corps Reserve and began a period of active duty for training on 22 September 2009. Petitioner's pre-enlistment physical examination and self-reported medical history both noted no psychiatric or neurologic issues, history, or symptoms.

d. On 4 February 2010, Petitioner was issued an administrative remarks (Page 11) counseling concerning his assignment to the Student Administrative Company due to possible heart murmur and mental health issues.

e. On 9 February 2010, Petitioner was issued a Page 11 counseling concerning his eligibility for promotion. Petitioner was informed that he was eligible but not recommended for promotion to Private First Class (PFC) for the month of March due to lack of judgement.

f. On 5 May 2010, Petitioner was issued a Page 11 counseling concerning his fraudulent enlistment, in violation of Article 83, Uniform Code of Military Justice (UCMJ). Specifically, omitting/concealing the facts of his condition (depressive disorder and attention-deficit hyperactivity disorder (ADHD) by history).

g. On 5 May 2010, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps by reason of fraudulent enlistment. The basis for the recommendation was Petitioner's failure to report his conditions (depressive disorder and ADHD by history) that existed prior to his enlisting in the Marine Corps. This notice informed Petitioner that his unit commander was recommending that he be discharged with a General (Under Honorable Conditions) (GEN) characterization of service.

h. On 5 May 2010, Petitioner's commanding officer (CO) recommended that Petitioner be administratively discharged from the Marine Corps with a GEN characterization of service. The CO stated in pertinent part:

I recommend that [Petitioner] be discharged from the Marine Corps with a General (Under Honorable Conditions) discharge under Para 6204.3 (Fraudulent Entry). [Petitioner] possesses a medical condition (depressive disorder and ADHD by history), which he failed to report prior to enlisting in the USMC. Specifically, [Petitioner's] negative response to items 17(a)(e) (f) & (g) of DD Form 2807 identifying he did not have, nor ever had nervous trouble of any sort, received counseling of any type, had depression or excessive worry nor ever been evaluated or treated for a mental condition. This omission or concealment of facts, if known at the time, would have reasonably precluded, postponed or otherwise affected his eligibility for enlistment. Based on the medical assessment, [Petitioner] does not have the ability to serve in the military. Consequently, [Petitioner] does not possess the ability to continue active service in the Marine Corps. Based on the medical officer's assessment and my interview.

i. On 10 May 2010, Petitioner provided a voluntary statement that stated in pertinent:

I understand that I am being discharged with General (Under Honorable Conditions) for fraudulent enlistment. There were two conditions that I had and

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am being discharged for: depression and ADHD. I admit I knew about the depression, but the ADHD was never explained to me throughout my life.

j. On 10 May 2010, Petitioner was advised of and waived his procedural right to consult with counsel and to submit a statement in rebuttal to the proposed separation.

k. On 17 May 2010, the separation authority directed that Petitioner be discharged from the Marine Corps with a GEN character of service by reason of fraudulent enlistment. Petitioner was so discharged on 19 May 2010.

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

There is evidence that the Petitioner was diagnosed with mental health conditions that existed prior to enlistment. His mother's statement may be accurate, as treatment for ADHD often proceeds by prescribing a medication, and then making a diagnosis based on the efficacy of that medication. Although he stated that the protocol for treating his ADHD was never explained to him, he did admit to knowing about his Depressive Disorder diagnosis. 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 sufficient evidence of a mental health condition/s that existed pre-service. There is insufficient evidence that rationale for separation was in error."

m. Petitioner contends the following injustices warranting relief:

(1) At the time, he did not fight the discharge because he was told that it was due to withholding ADHD medications; he was unaware that he ever took the medication;

(2) He found that he was never diagnosed with ADHD;

(3) He was given medication to see if it would help him; his dosage was raised because it was not helping, and he was ultimately taken off the medication;

(4) He was never told to avoid a placebo effect; and

(5) He was discharged for a diagnosis that he never had.

n. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149 and the evidence he provided in support of it.

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## CONCLUSION

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

The Board found no error in Petitioner's GEN characterization of service discharge for fraudulent entry into military service. However, because Petitioner based his claim for relief in whole or in part upon his mental health condition (MHC), the Board reviewed his application in accordance with the guidance of references (b) through (e).

In applying liberal consideration to Petitioner's MHC and any effect that it may have had upon his conduct, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, among other factors, the mitigating effect of Petitioner's MHC may have had upon his conduct and, based upon this review, found that Petitioner's MHC did have an effect on his conduct. After reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board determined that Petitioner's discharge should not be labeled as being for a fraudulent enlistment and that certain remedial administrative changes are warranted to the Certificate of Release or Discharge from Active Duty (DD Form 214). Specifically, the Board concluded that Petitioner's narrative reason for separation, separation code, and separation authority should be changed to reflect a Secretarial Authority discharge in the interests of justice. However, the Board concluded Petitioner's reentry code should remain unchanged based on his unsuitability for further military service due to his diagnosed mental health condition.

With regard to Petitioner's request for an upgrade of his discharge character of service, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) through (e). These included, but were not limited to, Petitioner's desire to upgrade his discharge character of service and the previously mentioned contentions raised by Petitioner in his application.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant granting a change to his assigned characterization of service. The Board concurred with the AO that, while there is sufficient evidence of mental health conditions that existed pre-service, there is insufficient evidence that rationale for separation was in error. As the AO explained, although Petitioner stated that the protocol for treating his ADHD was never explained to him, he admitted to his awareness of his Depressive Disorder diagnosis. While the Board determined this mental health condition was sufficiently mitigating to merit clemency in the form of changing Petitioner's separation basis, they concluded 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.

Therefore, even in light of references (b) through (e) and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner any additional relief or granting additional relief as a matter of clemency or equity. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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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 or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 19 May 2010, he was discharged with a narrative reason for separation of "Secretarial Authority," separation code of "JFF1," and separation authority of "MARCORSEPMAN PAR 6214."

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.

8/6/2025

[REDACTED]