



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

[REDACTED]
Docket No. 404-25
7498-21
Ref: Signature Date

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

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

- Ref:
- (a) 10 U.S.C. § 1552
 - (b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," 3 September 2014
 - (c) PDUSD (P&R) Memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI)," 24 February 2016
 - (d) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," 25 August 2017
 - (e) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018
 - (f) MCO P1900.16E, Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 18 August 1995
 - (g) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

- Encl:
- (1) DD Form 149, signed 6 January 2025 (with enclosures)
 - (2) NAVMC 763A, Appointment and Acceptance Record of 27 May 92
 - (3) NAVMC 10922, Dependency Application
 - (4) Trial Services Office Memo 1000 IO, subj: Preliminary Inquiry into the Allegations of Fraternization and Adultery made against [Petitioner], 4 February 1998
 - (5) Petitioner's Statement, 3 February 1998
 - (6) USMC FITREP (1810) (970502-980203), 6 March 1998
 - (7) [REDACTED] CO Memo 5812 SJA/S/7, subj: Notification of Article 15, UCMJ, Hearing, 20 March 1998 (with Petitioner's Election of Rights, *signed* 30 March 1998)
 - (8) Petitioner's Memo 5812 SJA/S/7, First Endorsement on Enclosure (7), subj: Notification of Article 15, UCMJ Hearing, 17 April 1998
 - (9) [REDACTED] CO Memo 5812 SJA/S/7, subj: Report of Nonjudicial Punishment in the case of [Petitioner], 17 April 1998

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- (10) [REDACTED] CO Memo 5812 SJA/S, subj: Punitive Letter of Reprimand, 17 April 1998
- (11) Petitioner's Memo 5812 DSJA, subj: Request for Resignation in Lieu of Processing for Administrative Separation, 17 April 1998
- (12) USMC FITREP (1810) (980204-980616), 16 June 1998
- (13) DD Form 214
- (14) Naval Discharge Review Board Discharge Review Decisional Document, Docket No. MD03-00848, 22 March 2004
- (15) DD Form 149, *signed* 18 October 2021 (with enclosures)
- (16) BCNR Memo Docket No: NR20210007498, subj: Advisory Opinion ICO [Petitioner], 27 December 2001
- (17) BCNR Memo [REDACTED] Docket No. 7498-21, subj: Review of Naval Record of [Petitioner], 9 May 2022 (with Acting ASN (M&RA) Decision, 13 June 2022)
- (18) BCNR Memo Docket No. 404-25, subj: Advisory Opinion ICO [Petitioner], 22 May 2025
- (19) BCNR Letter Docket No: NR20250000404, 27 May 2025
- (20) [REDACTED] Clinic "My Chart" Health 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, hereinafter referred to the Board, requesting reconsideration of the denial of Petitioner's request for a discharge upgrade by the Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) in Docket No. 7498-21.¹

2. A three-member panel of the Board, meeting in executive session, convened to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures on 31 July 2025 and determined that no corrective action should be taken upon Petitioner's naval record. This was not a *de novo* review, as the decision of the Acting ASN (M&RA) in Docket No. 7498-21 was final. Rather, this review was limited to consideration of whether the new material provided with Petitioner's reconsideration request warranted a change to the Acting ASN (M&RA)'s decision. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include references (b) – (e).

3. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record and the evidence provided with his application:

a. Petitioner was commissioned as an officer in the Marine Corps upon his graduation from the United States Naval Academy (USNA) on 27 May 1992. See enclosure (2).

b. Petitioner was married on 30 November 1993. See enclosure (3). He remained married to this woman throughout the events described below which resulted in this discharge from the Marine Corps.

¹ Petitioner specifically requested that his discharge characterization be upgraded to honorable, or alternatively to general (under honorable conditions).

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c. By memorandum dated 4 February 1998, a preliminary inquiry (PI) substantiated allegations that Petitioner fraternized and committed adultery with a married junior enlisted female Marine while he was serving as the commander of [REDACTED], [REDACTED]. See enclosure (4). Although Petitioner initially denied any such relationship and suggested that the enlisted Marine fabricated the existence of a sexual relationship based upon her infatuation with him, he ultimately admitted to an ongoing sexual relationship that began in early November 1997 and continued even after she had departed [REDACTED] when he visited her at her new duty station after enlisting the assistance of another enlisted Marine to track down her address and phone number.² He explained in a statement dated 3 February 1998 that a subordinate noncommissioned officer (NCO) had approached him around 8 November 1997 to let him know that the junior enlisted female Marine liked him and wanted to get to know him better. They initially met in his office that afternoon, and then again that evening when he had the same NCO arrange another meeting in his office. Petitioner described a later incident during which he had his paramour hide in his office wall locker when his wife knocked on the door. During the course of their relationship, Petitioner enlisted the assistance of subordinate Marines to translate Spanish e-mail messages received from his paramour which revealed the nature of their relationship. Despite ultimately admitting to sexual relations with the Marine, Petitioner insisted that the Naval Criminal Investigation Service (NCIS) pressured her to make statements incriminating him. Petitioner admitted that his paramour had asked about a potential disciplinary action pending against a friend in which Petitioner ultimately decided not to impose any punishment, but denied that she influenced this decision in this regard.³ Petitioner concluded this statement by admitting that it was both "bad judgment and bad timing" to seek comfort from the junior enlisted Marine during a difficult period in his life. He also stated that he was "guilty of gross fraternization and adultery with a junior Marine" and that he would take whatever punishment was deemed necessary, but asked only that his family be spared the pain and embarrassment of his actions. See enclosure (5).

d. Petitioner was subsequently relieved for cause from his command of [REDACTED] and as a result received an adverse fitness report (FITREP) for the reporting period 2 May 1997 to 3 February 1998 which referenced the findings of the PI on 6 March 1998. In his response to this adverse FITREP, Petitioner offered his "sincere apology for [his] unprofessional conduct." See enclosure (6).

e. By memorandum dated 20 March 1998, Petitioner was notified of his command's intent to impose nonjudicial punishment (NJP) against him for conduct unbecoming an officer and a gentleman in violation of Article 133, Uniform Code of Military Justice (UCMJ), in that he "established and maintained an unlawful, unduly familiar relationship with [the married junior enlisted female Marine]; committed adultery with [the same junior enlisted Marine]; and impeded an investigation by making a false statement to the investigating officer."⁴ See

² Petitioner retracted his original denial and admitted to the adulterous sexual relationship with knowledge that his paramour had already admitted to the relationship.

³ The "friend" in question was the same Marine who had provided Petitioner with his paramour's contact information after she departed [REDACTED].

⁴ This was a poorly drafted charge for NJP, as Petitioner could more precisely have been charged with violations of Article 92, UCMJ, for fraternization; Article 134, UCMJ, for adultery; and Article 107, UCMJ, for making a false official statement. The Board finds this error to be harmless, however, as it averred to Petitioner's favor.

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enclosure (7). By memorandum dated 17 April 1998, Petitioner acknowledged this notice and elected to accept NJP without availing himself of his opportunity to consult with a lawyer. See enclosure (8).

f. On 17 April 1998, Petitioner received NJP for conduct unbecoming an officer and gentleman in violation of Article 133, UCMJ. His punishment consisted of a punitive letter of reprimand (PLOR) and the forfeiture of \$1500 per month for two months.⁵ See enclosure (9). After the NJP hearing, Petitioner voluntarily tendered his resignation from the Marine Corps for the good of the service in lieu of processing for administrative separation for cause. See enclosure (11).

g. By memorandum dated 17 April 1998, Petitioner's commander submitted a Report of NJP detailing Petitioner's NJP results and the punishment imposed. He recommended that Petitioner's voluntary resignation request be accepted and that Petitioner be discharged under other than honorable (OTH) conditions. He further recommended that Petitioner not be required to show cause for retention unless his resignation request was withdrawn. See enclosure (9).

h. On 16 June 1998, Petitioner received an adverse FITREP for the reporting period 4 February 1998 to 16 June 1998.⁶ This FITREP reported that Petitioner "failed to remain an effective leader" or to "remain a contributor to the command" following his relief from command, and recommended that he not be promoted or retained. The Reporting Senior (RS) specifically stated his recommendation that Petitioner's discharge "not be upgraded at a later date." The Reviewing Officer (RO) commented that the RS comments were "on the mark," and that "a significant change in [Petitioner's] attitude, commitment, and overall performance was observed by all in the command." The RO further stated that Petitioner "has proven himself to be a self-centered individual who decided that he would no longer maintain the standards and work ethics expected of a Captain of Marines. During my entire career I have never observed an officer 'drop his pack' and completely stop contributing to his unit and the Corps, as I have observed in this officer during this reporting period." See enclosure (12).

i. Petitioner submitted a statement disputing the adverse FITREP described in paragraph 3h above. Specifically, he stated that the markings and comments "are erroneous and do not accurately portray the type of leader [he] was and will continue to be after [his] Marine Corps career ends in July 1998." He stated that he was counseled regarding his attitude and that he took responsibility for that, but that he was never counseled regarding his specific duties and that his "job" did not even exist. In stating that he disputed the contents of the FITREP, he emphasized his disagreement with the recommendation "regarding [his] inevitable request for an upgrade of [his] discharge," and stated that "only time and my success as a leader and innovator in the corporate world will prove this fitness report and claims against me wrong." See enclosure (12).

⁵ Petitioner immediately elected not to appeal the NJP. The PLOR was issued on 17 April 1998. See enclosure (10).

⁶ Upon his relief from command on 3 February 1998, Petitioner was assigned duties as an Assistant Operations/S-3 Training Officer.

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j. On 6 July 1998, Petitioner was discharged from the Marine Corps under OTH conditions. See enclosure (13).

4. Procedural Background.

a. In April 2003, Petitioner submitted an application to the Naval Discharge Review Board (NDRB) requesting that his characterization of service be upgraded to honorable. In making this request, Petitioner made the following contentions:

(1) That his OTH discharge was inequitable because it was based upon a single incident of fraternization in over six years of loyal and honorable service with no other adverse actions;

(2) That he could be reinstated to active duty at his previous rank for any assignment at the Marine Corps' discretion, to include assignment to [REDACTED]; and

(3) That a senior officer purportedly assigned to the Office of the Secretary of the Navy would corroborate his claim to be an "honorable [sic] and professional officer of Marines."⁷

On 12 March 2004, the NDRB unanimously determined that no change to Petitioner's discharge was warranted.⁸ See enclosure (14).

b. Petitioner submitted his first DD Form 149 to the Board in October 2021, requesting a discharge upgrade. He contended that his record should be corrected because he is a graduate of the USNA who served honorably and faithfully throughout his career, dedicating his life to service. He stated that he denied the charges of conduct unbecoming an officer and a gentleman and fraternization at the time that they were made and continues to deny them, and reiterated his previously claim that the junior enlisted Marine with whom he had a sexual relationship was "harassed and bullied" by NCIS to incriminate him. He did not believe that he served without honor or that he is deserving of the label of OTH. Petitioner made the following addition contentions in his petition for relief:

(1) Petitioner contended that he continued to suffer from anxiety and depression as a result of post-traumatic stress disorder (PTSD) that he developed from his participation in [REDACTED] and [REDACTED] in [REDACTED] as well as from the verbal and physical harassment that he endured in the Marine Corps after being accused of fraternization and conduct unbecoming an officer.⁹

⁷ Petitioner did not provide a statement from this officer to that effect, but rather encouraged the NDRB to contact the officer to corroborate this claim.

⁸ The NDRB did note an administrative error in Petitioner's DD Form 214, in that the Narrative Reason for Separation (Block 28) should have stated "UNACCEPTABLE CONDUCT" rather than "Resignation (Unacceptable Conduct)," and referred the issue to HQMC for corrective action.

⁹ Specifically, Petitioner contended that the commander who issued his NJP described his conduct as "disgusting," especially in light of his status as a USNA graduate. He also described being placed into general housing and relegated to an administrative position with no formal duties, which resulted in his "various unsatisfactory fitness reports" and being shunned within the command. He neglected to mention, however, that he was most likely placed in general housing because he was no longer accompanied by his family in [REDACTED] and that he received only one more FITREP apart from his relief for cause FITREP.

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(2) Petitioner wanted the Board to understand that his former wife had separated from him twice previously and left him in [REDACTED] despite accompanied orders,¹⁰ and that he married the enlisted Marine with whom he engaged in a sexual relationship less than a year after his discharge, and that they have now been married for over 20 years and have four children.¹¹ He does not believe that his entire career as a Marine should be adversely characterized based upon a single act of love.

(3) Finally, Petitioner alleged he was “forced” to take an OTH discharge with the threat of a general court-martial if he refused and, in hindsight, believes he should have fought his discharge.

See enclosure (15).

c. Because Petitioner had based his request for relief in part upon his claimed mental health condition(s), to include PTSD, his application and records were reviewed by a Licensed Clinical Psychologist, who provided an advisory opinion (AO) dated 27 December 2021 for the Board’s consideration. The Licensed Clinical Psychologist reviewed the over 100 pages of medical records provided and described them as “unremarkable for a mental health diagnosis,” but noted that Petitioner “suffered from insomnia and was prescribed Lexapro” which is commonly prescribed for depression and anxiety symptoms. The Licensed Clinical Psychologist also noted that there was nothing in Petitioner’s service records indicating a mental health condition diagnosis or any reported psychological symptoms/behavioral changes indicative of a diagnosable mental health condition. Finally, the Licensed Clinical Psychologist commented that Petitioner’s contemporaneous statements attributed his misconduct to problems with his wife and his feelings for the junior enlisted female Marine, and that he indicated in his present application that his current mental health symptoms “are a result of the unfair treatment [he] received after [his current] wife was forced to incriminate [him].” She concluded that the preponderance of available objective evidence failed to establish that Petitioner suffered from a mental health condition at the time of his military service or that his in-service misconduct could be mitigated by a mental health condition.¹² See enclosure (16).

d. A three-member panel of the Board convened in executive session on 25 March 2022 to review Petitioner’s application in Docket No. 7498-21, and determined that equitable relief was warranted in the interests of justice. Specifically, the Board found no error or injustice in Petitioner’s discharge under OTH conditions, noting that he had previously admitted to the conduct he then denied in his application. The Board also applied liberal consideration to Petitioner’s claim that he continues to suffer anxiety and depression as a result of PTSD, and the effect that such conduct may have had upon his conduct, in accordance with references (b) – (d), but found insufficient evidence to establish that he suffered from any mental health conditions during his service or that his misconduct could be mitigated by any such condition. However,

¹⁰ The evidence reflects that Petitioner’s spouse left [REDACTED] shortly after discovering the junior enlisted female Marine hiding in Petitioner’s office wall locker.

¹¹ Petitioner also expressed concern that his OTH might adversely affect his daughter, who would like to apply to the USNA.

¹² A copy of this AO was sent to Petitioner for comment by letter dated 12 January 2022, but no comments or matters were subsequently received.

the Board determined that equitable relief was warranted based upon nature of the misconduct for which Petitioner was discharged. Specifically, the Board determined that the disparate consequences suffered by Petitioner relative to more senior officers for similar misconduct constituted an injustice, and that an equitable upgrade of his discharge characterization to general (under honorable conditions) was therefore warranted in the interests of justice. See enclosure (17).

e. On 9 May 2022, the Board's Executive Director determined that the Board's decision to upgrade Petitioner's discharge characterization warranted Secretarial-level review, opining that the Board's decision was fatally flawed. Specifically, she noted that the Board did not identify the more senior officers who allegedly received less severe consequences than did Petitioner for similar misconduct and did not compare the circumstances of their respective cases to Petitioner's case. This omission, she opined, was significant "given the particularly egregious nature of Petitioner's adulterous fraternization, not to mention that Petitioner originally lied about his conduct during the PI, as it would essentially set a precedent that an OTH or punitive discharge for adultery and/or fraternization will not survive scrutiny by the Board simply because other unnamed officers have received less severe consequences for similar misconduct in the past." The Board's Executive Director also noted that Petitioner did not offer any examples of post-service accomplishments or contributions that might warrant equitable relief, and that he hadn't even demonstrated remorse for his actions and seemed "to blame everyone but himself for his predicament, to include his ex-wife, NCIS, and the commander who recommended that his voluntary resignation request be approved." Finally, the Board's Executive Director highlighted the evidence of Petitioner's "exceptionally poor character" when he ceased "to act as a professional Marine after the allegations against him came to light," noting that his performance and attitude became so egregious that his RS went so far as to recommend that his discharge not be upgraded at a later date and his RO stated that he had "never observed an officer 'drop his pack' and completely stop contributing to his unit and the Corps" as Petitioner did. Given these circumstances, the Board Executive Directed expressed her concern that "it is difficult to imagine under what circumstances a future request for an upgrade to any discharge resulting from fraternization, much less one as open and notorious as the adulterous fraternization engaged in by Petitioner, could be ever be [sic] denied given the precedent that the Board's recommendation ... would create." Accordingly, she recommended that the Board's recommendation be disapproved. See enclosure (17).

f. On 13 June 2022, the Acting ASN (M&RA) approved the recommendation of the Board's Executive Director, thus disapproving the Board's recommendation that Petitioner's discharge characterization be upgraded to general (under honorable conditions) and denying Petitioner's request for corrective action. See enclosure (17).

g. Petitioner submitted his present request for reconsideration of the decision of the Acting ASN (M&RA) in January 2025.¹³ In support of this request, he submitted new material that he had not previously provided to the Board for review in Docket No. 7498-21, and alleged the following errors warranting corrective action through his attorney:

¹³ Petitioner signed the DD Form 149 on 6 January 2025, but it was not received by the Board until 15 January 2025.

(1) Petitioner insisted that his PTSD symptoms commenced prior to his engagement in the affair which resulted in his discharge, and that those symptoms affected his judgment with regard to the inappropriate relationship.¹⁴ In support of this claim, he provided a letter from a physician, dated 18 June 2024, purporting to attest to the impact that PTSD had upon Petitioner's life and describing the symptoms that Petitioner demonstrated after his deployments.¹⁵ He also asserted that the misconduct in question evidenced his PTSD condition, and suggested that the existence of his improper relationship itself disproved the observation previously made by the Board's Executive Director that PTSD does not typically cause individuals to pursue inappropriate relationships.

(2) That Petitioner's command failed to consider, and the Board was apparently unaware of, Petitioner's consistently strong character throughout his career in the Marine Corps. Specifically, he asserted an error in that his OTH service characterization does not accurately reflect the overall quality of his service.

(3) Petitioner insisted that he has expressed remorse for his misconduct, contrary to the comments made by the Board's Executive Director in Docket No. 7498-21 in recommending against approval of the Board's favorable recommendation in that case.

(4) The comments made by his RS and RO in the adverse FITREP issued after his relief for cause referenced in paragraph 3h above were false and biased, in that his RS had sexually harassed his paramour (now wife) and resented Petitioner for his continuing relationship with her. Specifically, Petitioner's counsel asserted that the comments regarding his performance were false, but that his "attitude" was adversely affected by his personal conflict with the RS.

Apart from his allegations of material error, Petitioner also asserted the existence of a material injustice in that he has been "improperly stigmatized and harmed" by his OTH discharge characterization for nearly 30 years. In support of his request for equitable relief, and presumably in response to the comments of the Board's Executive Director in Docket No. 7498-21 that he had not provided any evidence of his post-service conduct which might otherwise warrant equitable relief, Petitioner provided commentary (vice evidence) regarding his post-service professional success and reported volunteer and service efforts. Finally, Petitioner provided five character references with his present reconsideration request,¹⁶ along with a letter from his current wife (i.e., the former paramour with whom Petitioner engaged in an adulterous affair during his Marine Corps service) and his own personal statement. See enclosure (1).

h. Because Petitioner again based his request for relief in part upon his claimed PTSD condition, his application and records were again reviewed by a Licensed Clinical Psychologist

¹⁴ In this regard, Petitioner's present reconsideration request essentially provides the rebuttal to the AO referenced in paragraph 4c above that Petitioner failed to provide in Docket No. 7498-21.

¹⁵ This physician described himself as a personal friend of Petitioner who had known Petitioner for most of his life.

¹⁶ Four of these character references were from former USNA classmates, one of whom is currently serving as a general officer in the Marine Corps and the Deputy Commander, [REDACTED]. The inclusion of this letter from a Marine Corps general officer elevates the approval authority for this decision to the ASN (M&RA). The fifth character reference was from an attorney representing Petitioner's current business interests.

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who provided another AO for the Board's consideration.¹⁷ This Licensed Clinical Psychologist noted that there was no evidence of a mental health diagnosis during Petitioner's service, and that the letter referenced at paragraph 4g(1) above attesting to the possible existence of PTSD during Petitioner's service was from a biased source. She further noted that it does not appear that Petitioner ever sought treatment or therapy for any PTSD symptoms, and that adultery and fraternization are not typical behaviors caused by PTSD symptoms. Accordingly, the Licensed Clinical Psychologist opined that there is insufficient evidence of any mental health condition existing during Petitioner's Marine Corps service, or that his misconduct could be attributed to any such condition. See enclosure (18).

i. A copy of the AO referenced in paragraph 4h above was sent to Petitioner's attorney at the address provided on his DD Form 149 under cover of a letter dated 27 May 2025 for comment. See enclosure (19). However, Petitioner did not provide a response.

5. Conclusions. Upon careful review and consideration of the new material provided with his current request for reconsideration, the Board found insufficient evidence of any material error or injustice warranting a change to the decision of the Acting ASN (M&RA) in Docket No. 7498-21.

a. *PTSD*. Even applying liberal consideration in accordance with references (b) – (d) and considering the new material provided with Petitioner's reconsideration request purportedly offered in part to support his contention in this regard, the Board continued to find insufficient evidence to support Petitioner's claim that he ever suffered from PTSD while in the Marine Corps, much less that such a condition contributed to the misconduct for which he was discharged.

(1) Even applying extremely liberal consideration in accordance with reference (b) – (d), the Board continued to find insufficient evidence that Petitioner ever suffered from PTSD. This is because he has provided the Board with literally no credible evidence to support this claim even after being informed of this deficiency in Docket No. 7498-21. The only so-called "medical" evidence that Petitioner offered to support this claim on reconsideration was not medical evidence at all, but rather a quasi-character reference from a life-long friend who happened to possess medical credentials unrelated the diagnosis and treatment of mental health conditions.¹⁸ Nowhere in this purported "medical evidence" does the physician provide anything resembling a PTSD diagnosis, most likely because this physician neither treated nor evaluated Petitioner during the period in question or since and therefore was not qualified to render such a diagnosis. Rather, the entirety of the letter's content appears to have been fed to Petitioner's long-time friend with medical credentials in an effort to manufacture the evidence that the Board found to be lacking in Docket No. 7498-21, as evidenced by the fact that it was primarily a factual narrative about Petitioner's history of symptoms that the author would have had no opportunity to observe in a patient located at [REDACTED] while practicing in [REDACTED]. Reference (d) provides that "[a] diagnosis made by a licensed psychiatrist or psychologist that [a mental health] condition existed during military service will receive liberal consideration," but

¹⁷ The author of this AO was a different Licensed Clinical Psychologist than the author of the previous AO for Docket No. 7498-21 referenced in paragraph 4c above.

¹⁸ Petitioner's physician friend was a Doctor of Osteopathy.

Petitioner's friend was neither a licensed psychiatrist or psychologist nor did he render a diagnosis. The Board acknowledges that reference (d) provides that a "veteran's testimony alone, oral or written, may establish the existence of a condition," but did not find it to do so in this case because Petitioner's credibility was questionable at best given his history of dishonest statements related to the circumstances resulting in his discharge and demonstrated tendency to change his story to suit his purpose.¹⁹ The Board also acknowledges that there once existed a stigma that may have prevented Petitioner from seeking mental health treatment if he actually needed it. However, Petitioner has been removed from the Marine Corps for over 27 years. He and his physician friend claim that he has been actively seeking treatment for PTSD, but he continues not to provide any evidence of such treatment or recent diagnosis. To the contrary, exhibit 6 of his current submission to the Board listed the current health issues reflected in Petitioner's electronic medical record from his current medical provider as of 2024, and does not list PTSD.²⁰ Rather, it states only that Petitioner once complained of anxiety and depression starting in July 1998, but does not carry that complaint forward as a current concern or list these symptoms as a current concern as of 2024. Liberal consideration does not require the Board to simply take Petitioner's word with regard to his claimed mental health conditions at face value, especially when the record contains significant reasons to doubt the credibility of that word. It is entirely Petitioner's burden to provide the existence of a mental health condition that might excuse or mitigate the misconduct for which he was discharged, but he has now failed to provide any credible evidence in this regard after two attempts.

(2) Whether Petitioner actually suffered from PTSD during his service in the Marine Corps is ultimately irrelevant since such a condition would not logically excuse or mitigate the misconduct for which he was discharged. There simply is no logical nexus between PTSD symptoms and the misconduct in question. Even assuming, *arguendo*, that the combination of PTSD symptoms and the effect that those symptoms had upon his marriage conspired to make Petitioner more susceptible to the amorous advances of an attractive woman, PTSD would not justify or explain why a supposedly honorable Marine Corps officer would engage in such an adulterous relationship with a junior enlisted Marine in blatant violation of Marine Corps regulations prohibiting fraternization between officer and enlisted personnel. Such a condition would also not compel a commanding officer in the Marine Corps to engage in such a relationship in an open and notorious manner known to the subordinates for whom he had a duty to set the proper example in conduct and deportment; to inexcusably employ his own subordinate Marines in furtherance of such a relationship; or to compromise his command position in such a way that any objective observer (including presumably his own subordinate Marines) would believe that he was influenced not to enforce discipline upon a friend of his paramour and the Marine who facilitated the improper relationship. PTSD also would not compel an honorable Marine to lie under oath during an investigation of such conduct. Finally, PTSD would not

¹⁹ In his application for Docket No. 7498-21, Petitioner insisted that he did not commit the misconduct in question after admitting to it at the time. It was only when he discovered that the Board had access to those records disproving his claim made decades later that he changed his story. In his present application, Petitioner insists that his traumatic experiences in Haiti were the source of his claimed PTSD symptoms, but he contemporaneously attributed his anxiety and depression to his spouse at the time and in Docket No. 7498-21 he attributed them in large part to the "verbal and physical harassment he endured after being accused of fraternization" (i.e., the natural consequences of engaging in misconduct as a Marine Corps officer).

²⁰ See enclosure (20).

logically cause an honorable Marine to essentially abdicate his responsibilities after being relieved to such an extent as to motivate both his RS and RO to apply superlatives to the deficiency of his performance the likes of which this Board has rarely observed. The Board did not find the circular argument offered by Petitioner's attorney in this regard that Petitioner's adulterous relationship with the junior enlisted Marine in question proves otherwise to be remotely persuasive. Accordingly, the question of whether Petitioner was actually suffering from PTSD as he claims is essentially irrelevant because such a condition would neither excuse nor mitigate the misconduct in question.

b. *OTH Discharge Characterization.* The Board found no error or injustice in the OTH characterization of Petitioner's discharge.

(1) In accordance with paragraph 1004.3c of reference (f), an OTH characterization could be issued "when the reason for separation is based upon behavior, or omission, that constitutes a significant departure from the conduct expected of a Marine." Petitioner's misconduct certainly satisfied this criteria. In fact, "disregard of customary superior-subordinate relationships" is one of six examples provided in this paragraph of conduct warranting such a characterization. Petitioner acknowledged that he could be discharged under OTH conditions for his misconduct when he submitted his voluntary resignation request, and was on notice that that was, in fact, the recommendation of his command, yet elected to forego the show cause proceedings at which he could have tried to persuade a Board of Inquiry that his overall service record warranted either retention or a more favorable characterization than that recommended by his command. Accordingly, it would not matter if Petitioner's overall service record was otherwise honorable; the OTH characterization assigned to Petitioner's discharge was based upon the circumstances of and reason for his discharge, and this characterization was certainly warranted given the nature of his misconduct.²¹

(2) The Board also found no merit to Petitioner's contention that this characterization represented a material injustice in that he "has been deprived of his honor and good name, which continues to cause him undue harm nearly 30 years after his discharge from the Marine Corps." In this regard, the Board acknowledges and agrees with Petitioner's contention that a discharge under OTH conditions has a similar stigmatizing effect to that of a bad conduct discharge, as Petitioner explicitly acknowledged this stigma when he tendered his voluntary resignation request. However, none of the related harm that he allegedly has suffered as a result of this characterization since his discharge was "undue"; his OTH discharge characterization was well earned and deserved for his conduct that was a gross departure from that expected of a Marine.

c. *Adverse FITREP.* The Board found insufficient evidence to support Petitioner's claim that the adverse comments made by his RS and RO on his FITREP of 16 June 1998 were erroneous or the result of any bias. In accordance with reference (g), "[t]he Board relies upon the presumption of regularity to support the official actions of public officers and, in the absence of *substantial* evidence to the contrary, will presume that they have properly discharged their official duties. Applicants have the burden of overcoming this presumption."²² Accordingly, the

²¹ To be clear, the entirety of Petitioner's service was not otherwise honorable, as evidenced by his actions and attitude following his relief from command.

²² See Section 3e(2) of Enclosure (1) to reference (g).

Board starts with the presumption that Petitioner's RS accurately described Petitioner's performance after his relief for cause when he reported that Petitioner "failed to remain an effective leader" or "to remain a contributor to the command" following his relief for command. The Board also starts with the presumption that his RO was accurate when he reported that all in the command observed "a significant change in [Petitioner's] attitude, commitment, and overall performance" following his relief; that Petitioner had "proven himself to be a self-centered individual who decided that he would no longer maintain the standards and work ethics expected of a Captain of Marines"; and that he had "never observed an officer 'drop his pack' and completely stop contributing to his unit and the Corps as [he] observed in [Petitioner]." Petitioner has the burden of providing substantial evidence to overcome these presumptions, but he provided none. Rather, he provided only a statement wherein he acknowledged that his "attitude" suffered during this period based upon an unproven allegation of bias by the RS which he did not previously raise,²³ while attempting to distinguish that admittedly poor attitude from his "performance." As there is no legitimate distinction between demonstrated attitude and performance in a Marine Corps Captain who is expected to set the standard and a positive example for all subordinate Marines to emulate at all times, Petitioner unintentionally corroborated the description of his conduct made by these two rating officials. Petitioner acknowledged in his personal statement submitted in support of his present application that he could not refute the description of his conduct following his removal from command contained within the FITREP in question with material evidence due to the passage of time. Unfortunately, that remains his burden regardless of the difficulty in doing so. Accordingly, the Board continues to presume that the FITREP accurately describes Petitioner's conduct following his relief from command, and finds that such conduct further justified the OTH characterization assigned to Petitioner's discharge and weighs against any equitable upgrade to that characterization.

d. *Equitable Considerations.* In accordance with reference (e), the Board considered the totality of the circumstances to determine whether some equitable relief may be warranted in the interests of justice. In this regard, the Board considered, amongst other factors, that Petitioner married the junior enlisted Marine with whom he engaged in the adulterous relationship soon after his discharge and remains married to her today; the reported irreparable state of Petitioner's previous marriage at the time that he engaged in the misconduct in question; the mutual claims made by Petitioner and his current wife that their inappropriate relationship provided each a respite from the mental health crises that both were experiencing at the time; Petitioner's contention that he continues to suffer anxiety and depression as a result of his participation in [REDACTED] and [REDACTED] in [REDACTED]; the totality of Petitioner's career in the Marine Corps, which included deployment to [REDACTED] and his selection to a prestigious company command billet; the absence of other misconduct in Petitioner's record; Petitioner's expression of remorse in his current application; the character references provided with Petitioner's current reconsideration request; Petitioner's reported post-service accomplishments

²³ The Board acknowledges Petitioner's claim that these rating officials were biased against him because they had previously sexually harassed his paramour, and that his paramour, who is now his wife, provided a statement tending to corroborate the allegation of sexual harassment against the RS (she did not implicate the RO as Petitioner's attorney did). However, this allegation is not entitled to liberal consideration as it would be if Petitioner's wife were the one seeking relief from the Board, and it does not provide a logical basis for the bias that Petitioner alleges.

and contributions to society; and the passage of time since Petitioner's discharge. Unfortunately, the Board did not find these matters nearly sufficient to justify any equitable relief. Specifically, the Board concurred with the description of Petitioner's conduct provided by the Board's Executive Director in Docket No. 7498-21. It is not the fact that Petitioner engaged in an adulterous relationship with the woman that he later married which made his conduct so egregious. Rather, it was the open and notorious manner in which he carried on this prohibited relationship with a junior enlisted Marine within the relatively close and insular confines of [REDACTED]. It was his indiscreet and illegal use of his subordinate Marines to facilitate continuation of the relation. It was the fact that he created at least the impression that his command authority was compromised by the relationship when he denied recommended disciplinary action against the friend of his paramour whom he relied upon to facilitate the relationship which made it so egregious. Finally, it was Petitioner's dishonesty which made his conduct in this regard so egregious. As such, the Board found the severity of Petitioner's misconduct to far outweigh all of the potentially mitigating factors combined. In this regard, the Board found the effort of Petitioner's attorney to portray Petitioner's clearly unacceptable conduct as evidence of his professionalism and honor to be unpersuasive – his efforts in this regard projected a lack of awareness of the high standards that Marine Corps officers are held to and of which Petitioner was undoubtedly aware when he failed to abide them. The Board also did not find particularly persuasive the character references provided by four former USNA classmates and the civilian attorney currently retained to represent his business interests with no apparent understanding of the standards about which she offered her opinion. If Petitioner truly is the person he claims to be, certainly he could find a more diverse group of individuals willing to testify to his character given the extensive period since his discharge. He also would not have essentially abandoned his standing as a Marine Corps officer following his relief from command to an extent reportedly unparalleled in the experience of the Marine Corps Lieutenant Colonel who served as his RO if he were actually the Marine that he claims himself to be. The Board was also not persuaded by Petitioner's claimed post-service professional successes and contributions to society. He provided no evidence of these contributions upon which the Board could measure their value other than his own self-serving statement. Finally, it was apparent to the Board that Petitioner continues not to appreciate the severity of the misconduct for which he was discharged and the breach of his duty as a Marine Corps officer. While he offered the statement of remorse that was notoriously missing from his previous application, he did so only while attempting to minimize his misconduct and amidst his repeated justifications and excuses for simply unjustifiable and inexcusable conduct. The Board did not find this to be a particularly close case and would not have reached the same conclusion as its predecessor did in Docket No. 7498-21. Petitioner's OTH discharge characterization was, and remains, entirely appropriate given the totality of the circumstances.

6. Recommendation. Based upon its conclusions discussed in paragraph 5 above, the Board recommends that no corrective action be taken upon Petitioner's naval record.

7. 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 titled matter.

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

8. The foregoing action of the Board is submitted for your review and action in accordance with Sections 6e(1)(c) and 6e(2)(b) of Enclosure (1) to reference (g).

1/13/2026



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

ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)
DECISION:

See Board Recommendation Approved (Deny Relief – I concur with the Board’s conclusions and therefore direct that no corrective action be taken upon Petitioner’s naval record.)

— Petitioner’s Request Partially Approved (Partial Relief – While I concur with the Board’s conclusion that there was no error in Petitioner’s discharge under OTH conditions pursuant to his voluntary resignation request, I believe that some modest equitable relief may be warranted in the interests of justice under the circumstances. Specifically, I found the mitigating circumstances to sufficiently outweigh the severity of Petitioner’s misconduct to justify the upgrade of his characterization of service to general (under honorable conditions). Accordingly, I direct that Petitioner be issued a new DD Form 214 reflecting that Petitioner’s service ending on 6 July 1998 was characterized as “General (under honorable conditions).” Please incorporate the correction to Petitioner’s original DD Form 214 reflected on his DD Form 215 (*Correction to DD Form 214, Certificate of Release or Discharge from Active Duty*) into this newly issued DD Form 214. All other entries reflected in Petitioner’s original DD Form 214 are to remain unchanged, to include Petitioner’s narrative reason for separation, separation authority, and separation code.)

— Petitioner’s Request Approved (Full Relief – While I concur with the Board’s conclusion that there was no error in Petitioner’s discharge under OTH conditions pursuant to his voluntary resignation request, I believe that equitable relief is warranted in the interests of justice under the circumstances. Specifically, I found the mitigating circumstances to so significantly outweigh the severity of Petitioner’s misconduct as to justify the equitable upgrade of his discharge characterization to fully honorable and the removal of any adverse information from his DD Form 214. Accordingly, I direct that Petitioner be issued a new DD Form 214 reflecting that Petitioner’s service ending on 6 July 1998 was characterized as “Honorable” and that the narrative reason for his separation be “Secretarial Authority” (with corresponding corrections to Petitioner’s separation authority and separation code). Please incorporate the correction to Petitioner’s original DD Form 214 reflected on his DD Form 215 (*Correction to DD Form 214, Certificate of Release or Discharge from Active Duty*) into this newly issued DD Form 214. Petitioner shall also be issued an Honorable Discharge Certificate.)