



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

[REDACTED]
Docket No. 460-25
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] USMCR

Ref: (a) 10 U.S.C. § 1552
(b) 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
(c) MCO P1900.16E, Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 18 August 1995
(d) SECNAVINST 5420.193, Board for Correction of Naval Record, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214 (19950821 – 19960404)
(3) NAVMC 118(3) Chronological Record
(4) Navy Drug Lab [REDACTED] Message, subj: Report of Urine Sample Tests, dtg 261722Z MAY 99
(5) NAVMC 118-12, Offenses and Punishments, 13 June 1999
(6) [REDACTED] CO Memo 1900 LEGAL, subj: Notification of Discharge Proceedings, 13 June 1999
(7) Petitioner's Statement, subj: Urine Analysis Results, *undated*
(8) Petitioner's Memo 1900 LEGAL, subj: Acknowledgment of Rights to be Exercised or Waived in Connection with Discharge Proceedings, 13 June 1999
(9) [REDACTED] CO Memo 1900 LEGAL, subj: Recommendation for Administrative Discharge of [Petitioner], 16 July 1999
(10) [REDACTED] Memo 1910 SJA, Second Endorsement on Enclosure (9), subj: Administrative Discharge in the case of [Petitioner], 2 November 1999

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 to "Honorable" and his narrative reason for separation be changed to "Secretarial Authority."
2. The Board considered Petitioner's allegations of error or injustice on 30 May 2025 and, pursuant to its governing policies and procedures, that the equitable relief recommended below is warranted in the interests of justice.¹ Documentary material considered by the Board included

¹ The Board was not unanimous in determining the scope of equitable relief warranted under the circumstances.

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the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include reference (b).

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found 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 interests of justice to waive the statute of limitation and consider Petitioner's application on its merits.
- c. Petitioner enlisted in the U.S. Marine Corps Reserve (USMCR) and affiliated with the [REDACTED], on 2 September 1994. He subsequently entered active duty for his initial entry training from 21 August 1995 to 4 April 1996. See enclosures (2) and (3).
- d. On 19 May 1999, a urine sample submitted by Petitioner pursuant to a unit urinalysis tested positive for the use of amphetamines and methamphetamines. This result was transmitted to Petitioner's command by message dated 26 May 1999. See enclosure (4).
- e. On 13 June 1999, Petitioner received non-judicial punishment for the wrongful use of a controlled substance in violation of Article 112a, Uniform Code of Military Justice (UCMJ). He was reduced in grade to Lance Corporal (E-3). See enclosure (5).
- f. By memorandum dated 13 June 1999, Petitioner was formally notified via the administrative board procedures that he was being recommended for discharge from the USMCR for misconduct due to drug abuse and advised of his rights in this regard. See enclosure (6).
- g. Upon acknowledging the notice of his administrative separation proceedings, Petitioner waived all of his rights except for his right to submit a written statement for consideration by the separation authority. He then provided a statement in which he admitted to the use of illicit drugs. Specifically, he stated that he was offered and accepted Ecstasy at a party on or about 16 May 1999, and he attributed this mistake to poor judgment, peer pressure, and the recent loss of his civilian job. Finally, he asked that his overall performance record be factored into the punishment determination. See enclosure (7) and (8).
- h. By memorandum dated 16 July 1999, Petitioner's commander recommended that Petitioner be discharged from the USMCR under other than honorable (OTH) conditions. See enclosure (9).
- i. By memorandum dated 2 November 1999, the separation authority approved the recommendation of Petitioner's command and directed that Petitioner be discharged under OTH conditions for misconduct due to drug abuse. See enclosure (10).
- j. Effective 1 December 1999, Petitioner was discharged from the USMCR. See enclosure (3).

k. Petitioner apologized for his conduct in 1999 and acknowledged that it fell below the standard expected of Marines. He further stated that he's "lived with the shame and remorse of his discharge for more nearly [sic] twenty-five years" and that he is still pained by his unfavorable discharge. He based his request for relief upon the guidance of reference (b) and suggested that he has been "improperly stigmatized and harmed" by his OTH discharge. Finally, Petitioner discussed his post-service contributions to his community. Petitioner's application was supported by two character references. See enclosure (1).

MAJORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Majority of the Board determined that equitable relief is warranted in the interests of justice.

The Majority found no error in Petitioner's discharge for misconduct due to drug abuse under OTH conditions when it was administered. In accordance with paragraph 6210.5 of reference (c), Marines could be discharged for misconduct due to drug abuse for the illegal, wrongful, or improper use of any controlled substance. Petitioner's wrongful use of amphetamines/methamphetamines is not in controversy, as he admitted to using Ecstasy in enclosure (7) and expressed remorse for such conduct in his current application, so the factual predicate for his discharge upon this basis was satisfied. It appears that all procedural requirements were also satisfied, since Petitioner was notified of his administrative discharge proceedings via the administrative board procedure and exercised his rights in that regard. He voluntarily waived his right to an administrative discharge board, but elected to exercise his right to submit a written statement and that statement was included with the separation package that went forward for consideration by the separation authority. Finally, paragraph 6210.5b of reference (c) provided that only the Commandant of the Marine Corps or an administrative discharge board could approve a characterization of service more favorable than OTH for drug-related offenses. Accordingly, the characterization assigned to Petitioner's discharge was not only appropriate under the circumstances but was the default characterization that he would reasonably expect to receive for such misconduct.

In addition to reviewing the circumstances of Petitioner's discharge under OTH conditions for error at the time it was administered, the Majority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Majority considered, amongst other factors, the entirety of Petitioner's service in the USMCR, which appears to have been otherwise favorable except for his drug abuse; Petitioner's claim that his drug use occurred shortly after the loss of his civilian job; the non-violent, isolated, and relatively minor nature of Petitioner's misconduct; Petitioner's apparently sincere expression of remorse and regret for his misconduct; Petitioner's post-service employment record and contributions to his community, reflecting a favorable character and likely rehabilitation; the character references provided for review; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. Based upon these mitigating factors, the Majority determined that equitable relief is warranted in the interests of justice. Specifically, the Majority determined that Petitioner's discharge characterization should be equitably upgraded to general (under honorable conditions) and his narrative reason for separation changed to "Secretarial Authority" to mitigate the stigma associated with his discharge from the USMCR.

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While finding the mitigating circumstances to sufficiently outweigh the severity of Petitioner's misconduct to justify the equitable relief described above, the Majority did not find those mitigating factors to so significantly outweigh the severity of Petitioner's discharge to justify the extraordinary relief that he requests. As discussed above, there was no error in Petitioner's discharge under OTH conditions under the circumstances and OTH was the characterization that he reasonably should have expected for such misconduct. As such, Petitioner bears a significant burden to justify any discharge upgrade, much less one to fully honorable as he requests. While the Majority was willing to remove the stigma associated with a discharge under OTH conditions based upon the mitigating factors, it simply did not find sufficient basis to characterize Petitioner's discharge in the same manner as the thousands of other Marines who manage to maintain the standard expected of Marines throughout their service.

MAJORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That a NAVMC 118(11) "Administrative Remarks" page be added to Petitioner's naval record reflecting that he was separated from the USMCR on 1 December 1999 under honorable conditions with a General discharge; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MARCORSEPMAN par. 6214"; that his separation code was "JFF1"; and that his reentry code was "RE-4B."

That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on Petitioner's naval record.

MINORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Minority of the Board also determined that equitable relief is warranted in the interests of justice.

The Minority concurred with the Majority conclusion in all regards except the Majority's conclusion that a change to Petitioner's narrative reason for separation is warranted under the circumstances. Specifically, the Minority determined that Petitioner's narrative reason for separation accurately reflects the reason for his discharge and that a change to it is not warranted given the totality of the circumstances. In reaching this conclusion, the Minority noted that the stigma associated with Petitioner's current narrative reason for separation is minimal under the circumstances. Petitioner did not receive a DD Form 214 since he was discharged from the USMCR rather than from active duty, so the reason for Petitioner's discharge from the USMCR is not accessible by the general public. Others may learn the reason for his discharge from the USMCR only if he volunteers it, which is true regardless of whether his narrative reason for separation is changed by the Board. Accordingly, the Minority determined that the stigmatizing effect of Petitioner's narrative reason for separation is negligible and should not be gratuitously changed.

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MINORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Minority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That a NAVMC 118(11) "Administrative Remarks" page be added to Petitioner's naval record reflecting that he was separated from the USMCR on 1 December 1999 under honorable conditions with a General discharge; that the narrative reason for his separation was "Misconduct (Drug Abuse)"; that his separation authority was "MARCORSEPMAN par. 6210.5"; that his separation code was "HKK1"; and that his reentry code was "RE-4B."

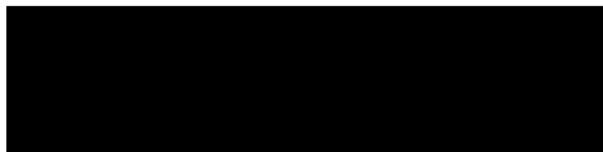
That a copy of this record of proceedings be filed in Petitioner's naval record.

That no further corrective action be taken on 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 titled matter.

5. The foregoing action of the Board is submitted for your review and action in accordance with Section 6e(2)(d) of Enclosure (1) to reference (d).

9/15/2025



Executive Director

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

X MAJORITY Recommendation Approved (Partial Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)

MINORITY Recommendation Approve (Partial Relief – I concur with the Minority conclusion and therefore direct the corrective action recommended by the Minority above.)

Petitioner's Request Approved (Grant Relief – I generally concur with the Board's conclusion that equitable relief is warranted given the totality of the circumstances, but do not believe that the corrective action recommended by the Majority goes far enough to serve the interests of justice. Specifically, I found the mitigating factors to so significantly outweigh the severity of Petitioner's minor misconduct to justify the relief that he requested. Accordingly, I direct the corrective action recommended by the Majority above, except that Petitioner's discharge of 1 December 1999 is to be characterized as "Honorable" and his reentry code changed to "RE-1J." Petitioner shall also be issued an Honorable Discharge Certificate.)

Board Recommendation Disapproved (Deny Relief – I do not concur with the Board's conclusion that equitable relief is warranted given the totality of the circumstances. Specifically, I found that the severity of Petitioner's misconduct outweighed all of the mitigating factors combined and that equitable relief is therefore unwarranted. Accordingly, I direct that no corrective action be taken on Petitioner's naval record.)

[REDACTED]
Assistant General Counsel (M&RA)