



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

██████████
Docket No. 0867-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████

██████████ 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, 9 May 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 and change of his narrative reason for separation to "Secretarial Authority." Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 30 June 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. Although Petitioner was afforded 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 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 FORMER MEMBER [REDACTED]

[REDACTED] USMC

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 19 August 1997.

d. On 29 July 1998, Petitioner was issued an administrative remarks (Page 11) counseling concerning deficiencies in his performance and/or conduct after failing to notify the desk sergeant of actions that occurred on post after being instructed to do so by the Provost Marshal.

e. On 13 January 1999, Petitioner received non-judicial punishment (NJP) for drinking on base while under the legal drinking age and driving on base while intoxicated. He additionally received a Page 11 for underage drinking and driving while intoxicated.

f. On 27 January 2003, Petitioner received an Honorable (HON) discharge followed by immediate reenlistment.

g. On 5 May 2005, a naval message was issued indicating Petitioner had tested positive for use of cocaine.

h. On 6 June 2005, Petitioner received NJP for use of cocaine.

i. Consequently, on 7 July 2005, Petitioner was notified of intended administrative separation processing for misconduct – drug abuse. He requested to appear before an administrative discharge board (ADB).

j. On 15 July 2005, Petitioner's commanding officer (CO) recommended Petitioner be separated with an Under Other Than Honorable Conditions (OTH) characterization of service.

k. On 1 August 2005, Petitioner requested a conditional waiver of his ADB in exchange for a General (Under Honorable Conditions) (GEN) characterization of service.

l. On 2 August 2005, Petitioner's CO recommended disapproval of Petitioner's request. On 5 August 2005, pursuant to that recommendation, the Commanding General disapproved Petitioner's request.

m. On 8 August 2005, Petitioner requested waiver of his administrative discharge in order to be allowed to continue in service in the Marine Corps.

n. On 10 August 2005, the Staff Judge Advocate reviewed the separation proceedings, found them to be sufficient in law and fact, and recommended Petitioner's separation with an OTH.

o. Petitioner was so discharged on 16 August 2005.

p. Petitioner previously applied to this Board for relief and was granted partial relief on 23 June 2023. In that decision, the Board directed addition of the language "Continuous Honorable Service for period of 19AUG97 – 27JAN03," to Petitioner's record. This correction was made via issuance of a DD Form 215.

q. Petitioner currently contends the corrections to his record are warranted in light of his PTSD and TBI diagnoses; which stemmed from an assault he experienced during his time in the Marines and should mitigate the misconduct that led to his discharge. He further contends his positive record, post-service activities, and rehabilitation efforts should also be taken into account in granting his request. For the purposes of clemency and equity consideration, he provided a legal brief with exhibits, including the record of his previous Board case, service record documents, an advocacy letter, performance evaluations, VA documentation, medical record documents, a disability questionnaire, and a letter from his psychologist.

r. 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, other than alcohol use disorder. However, it is possible that his substance use following the assault could be considered an indicator of avoidance of emotional distress consistent with undiagnosed PTSD. Temporally remote to his military service, the VA has granted service connection for PTSD and TBI. VA providers have considered that his substance use was a maladaptive coping strategy following the precipitant trauma, which is a possibility. It is not plausible to attribute his misconduct prior to the assault to PTSD.

The AO concluded, "There is post-service evidence from the VA of PTSD and TBI that may be attributed to military service. There is insufficient evidence to attribute all of his misconduct to PTSD or TBI."

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).

In this regard, the Board noted Petitioner's misconduct and does not condone his actions. However, the Board's concurred with the AO that a mental health condition existed at the time of Petitioner's misconduct that could be attributed to his post-trauma misconduct. After carefully considering all the evidence, the Board felt that Petitioner's mental health condition should mitigate the drug abuse he committed since his condition outweighed the severity of his misconduct. Therefore, in the interests of justice and based on liberal consideration, the Board determined Petitioner's characterization of service should be changed to General (Under Honorable Conditions) (GEN).

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable 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 outweighed the positive aspects of his military record, even under the liberal consideration standards for mental health

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

[REDACTED] USMC

conditions, and that a GEN discharge characterization and no higher was appropriate.

Further, the Board determined Petitioner's reason for separation remains appropriate in light of his misconduct. The Board considered the totality of the circumstances to determine whether additional relief was warranted in the interests of justice in accordance with references (b) through (d). After reviewing the record liberally and holistically, the Board concluded the available evidence was insufficient to grant Petitioner any further relief. 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 16 August 2005, his character of service was "General (Under Honorable Conditions)."

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.

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.

7/8/2025

