



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

[REDACTED]
Docket No. 1099-25
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures

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 to an "Honorable" characterization. Enclosure (1) applies.

2. The Board, consisting of [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 12 March 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 reference (b).

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's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 26 April 1993.

c. On 23 January 1996, Petitioner was tried and convicted by Special Court-Martial (SPCM) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 112a due to his wrongful use of marijuana. He was sentenced to 45 days of confinement with reduction to the paygrade of private / E-1, and forfeiture of \$250 pay per month for 2 months.

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d. On 3 May 1996, Petitioner was convicted by a second SPCM for another violation under Article 112a of the UCMJ for wrongful use of methamphetamines. He was sentenced to four months confinement, forfeiture of \$581 pay per month for four months, and a Bad Conduct Discharge.

e. The findings and sentence of Petitioner's second SPCM were affirmed by the Navy-Marine Corps Court of Criminal Appeals on 30 December 1996 and his punitive discharge was executed on 19 May 1997.

f. Petitioner contends that he served honorably for over three years prior to his misconduct but he developed a drug addiction. He was ashamed of his drug use and failure but has now been sober for over 20 years. He is hopeful that his post-discharge character and evidence of rehabilitation is sufficient to warrant consideration of an upgraded characterization of service and would like his son to be able to use his education benefits. In addition, the Board noted Petitioner checked the "Other Mental Health" box on his application but chose not to respond to the Board's request for supporting evidence of his claim. In support of his request and for clemency and equity consideration, he submitted a personal statement, five character letters, and multiple certifications related to his employment as a water treatment specialist.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in reference (b).

The Board noted Petitioner's repeated drug abuse misconduct and does not condone it. However, the Board favorably his clemency factors that included, but are not limited to, evidence of his significant post-discharge rehabilitation of his drug abuse and his character in maintaining his sobriety, favorable evidence of his employment and specialized training in providing safe drinking water, the significant passage of time since his discharge, the non-violent nature of his misconduct, his sincerely expressed remorse, his relative youth and immaturity at the time of his misconduct, and the fact he was battling an addiction to drugs at the time. As a result, the Board found that the totality of favorable matters in support of clemency outweighed the severity of the misconduct which resulted in Petitioner's punitive discharge. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's character of service to General (Under Honorable Conditions).

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 and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Additionally, the Board found Petitioner's reason for separation and reentry code remain appropriate in light of his record of misconduct.

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Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending 19 March 1997, he was discharged with a "General (Under Honorable Conditions)" characterization of service.

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.

4/1/2025

