



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█
Docket No. 1582-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

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XXX XX █ USMC

- Ref:
- (a) 10 U.S.C. § 1552
 - (b) 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
 - (c) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Board for correction of Military/Naval Records Considering Requests by Veterans for Modifications of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," 25 August 2017
 - (d) 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
 - (e) SECNAVINST 5300.28C, Military Substance Abuse Prevention and Control, 24 March 1999
 - (f) MCO P1900.16F, Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 30 May 2001
 - (g) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

- Encl:
- (1) DD Form 149 w/attachments
 - (2) DD Form 214
 - (3) NAVMC 118 (11), Administrative Remarks (1070), 3 October 2001
 - (4) █ Psychiatric Consultation Report, 7 February 2002
 - (5) NAVMC 118 (12) Offenses and Punishments, 26 March 2002
 - (6) Petitioner's Medical Record Entry of 2 March 2002
 - (7) NAVMC 118 (11), Administrative Remarks (1070), 21 March 2002
 - (8) Standard Form 600, Medical Record – Chronological Record of Medical Care (Physical Examination for Confinement), 22 March 2002
 - (9) Standard Form 600, Medical Record – Chronological Record of Medical Care, 26 March 2002
 - (10) █ 6320/55, Release Against Medical Advice, 5 April 2002
 - (11) NAVMC 118 (11) Administrative Remarks (1070), 16 May 2002
 - (12) DD Form 2808, Report of Medical Examination, 16 May 2002 (with DD Form 2807-1, Report of Medical History, 15 May 2002)
 - (13) █ CO Memo 1900

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- legal/tsl, subj: Recommendation for Administrative Separation in the case of [Petitioner], 12 June 2002
- (14) [REDACTED] Memo 1900 legal/tsl, subj: Recommendation for Administrative Separation in the case of [Petitioner], 12 June 2002
 - (15) [REDACTED] Memo 1900 LEGAL, subj: Request for Administrative Separation in the case of [Petitioner], 14 August 2002
 - (16) NAVMC 118 (11), Administrative Remarks (1070), 30 July 2002
 - (17) NAVMC 118 (11), Administrative Remarks (1070), 6 August 2002
 - (18) Standard Form 600, Medical Record – Chronological Record of Medical Care, 6 September 2002
 - (19) Petitioner’s Hand-Written Statement, 11 September 2002
 - (20) [REDACTED] Statement, 11 September 2002
 - (21) [REDACTED] Statement, 11 September 2002
 - (22) [REDACTED] CO Memo 1910 LEGAL/jjl, subj: Notification of Separation Proceedings, 27 September 2002
 - (23) Petitioner’s Memo 1910 LEGAL/jjl, subj: Acknowledgment of my Rights to be Exercised or Waived during Separation Proceedings, 27 September 2002
 - (24) [REDACTED] CO Memo 1910 LEGAL, First Endorsement on Enclosure (15), subj: Recommendation for Administrative Separation in the case of [Petitioner], 12 September 2002
 - (25) [REDACTED] CO Memo 1910 17, Second Endorsement on Enclosure (15), subj: Administrative Separation in the case of [Petitioner], 17 October 2002
 - (26) Department of Veterans Affairs Rating Decision, 16 December 2024
 - (27) BCNR Memo Docket No. 1582-25, subj: Advisory Opinion ICO [Petitioner], 28 May 2025
 - (28) Petitioner’s Letter, notarized 24 June 2025 (with enclosures)

1. Pursuant to the provisions of reference (a), the 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 discharge be upgraded to honorable.¹

2. The Board reviewed Petitioner’s allegations of error or injustice pursuant to its governing policies and procedures on 25 July 2025 and determined by a majority vote that the corrective action recommended in paragraph 6 below should be taken upon his naval record in the interests of justice. 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) – (d).

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:

¹ Petitioner also requested “Restoration of GI Benefits as outlined in [his] MEPS packet, Restoration of Compensation for Service Connected Conditions, [and] The Honor of Being Called a Marine.” However, these matters are beyond the purview of this Board.

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a. Petitioner enlisted in the U.S. Marine Corps and commenced a period of active duty service on 19 June 2000. See enclosure (2).

b. On 3 October 2001, Petitioner was formally counselled in writing for failing to obey lawful written and verbal orders, unauthorized absence (UA), failing a physical fitness test (PFT), and integrity violations. He was warned that failure to take corrective action may result in administrative separation or judicial proceedings. Petitioner elected not to provide a statement in response to this counseling. See enclosure (3).

c. On 7 February 2002, Petitioner was referred for a psychiatric evaluation after exhibiting suicidal ideations.² His primary complaint during this evaluation was that he felt singled out and did not fit in with his peers. The evaluating psychiatrist opined that Petitioner's histrionic traits mixed poorly with the structured Marine Corps lifestyle, but stopped short of diagnosing Petitioner with a personality disorder. He also opined that Petitioner had a low suicide risk, and that Petitioner was fit and suitable for continued service. See enclosure (4).

d. On or about 2 March 2002, Petitioner wrongfully "huffed" nitrous oxide in violation of reference (e). See enclosure (5).

e. Later in the evening of 2 March 2002, Petitioner received treatment at the [REDACTED] Emergency Room (ER) for a large hematoma on the back of his head after being "repeatedly kicked several times in the back of the head" during a fight.³ He denied experiencing any loss of consciousness after being kicked in the back of the head. See enclosure (6).

f. On 21 March 2002, Petitioner was formally counseled in writing for violating reference (e) by huffing nitrous oxide on 2 March 2002 (see paragraph 3d above). He was warned that any further conduct deficiencies could result in his administrative separation. See enclosure (7).

g. On 22 March 2002, Petitioner received non-judicial punishment (NJP) for the misconduct referenced in paragraph 3d above in violation of Article 92, Uniform Code of Military Justice (UCMJ). He received 30 days of corrective custody, was required to forfeit \$619 pay per month for two months, and was reduced in grade to E-2. See enclosure (5).

h. Following imposition of the NJP described in paragraph 3g above, Petitioner underwent a physical examination for confinement prior to the execution of his adjudged corrective custody. He reported no history of any thoughts of injuring himself during this examination. See enclosure (8).

i. On 26 March 2002, Petitioner was brought to the ER after fainting while being processed into corrective custody. Upon being referred to the [REDACTED] Mental Health Department, he reported being afraid that he would be unable to cope with the rigorous discipline of corrective custody and that he had contemplated suicide the night before.⁴ Petitioner's suicide concerns

² Petitioner reportedly made comments about shooting himself while at the range.

³ Petitioner's hematoma was described as being the size of a peach pit.

⁴ Petitioner reported that he planned to cut his wrists with a knife.

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were reportedly alleviated upon the psychiatrist's recommendation that he not be assigned to corrective custody, but he continued to question his ability to cope with continued service in the Marine Corps. Petitioner also reported at least three suicidal ideations during his enlistment, including the one resulting in the evaluation referenced in paragraph 3c above. See enclosure (9).

j. On 5 April 2002, Petitioner was released from [REDACTED] after refusing the medical advice of his providers. The document recording this decision included a hand-written note that his providers recommended that Petitioner undergo a diagnostic lumbar puncture to check for bleeding or infection in his brain.⁵ This note also indicated that Petitioner's refusal of the test prevented [REDACTED] from ruling out life threatening illnesses, and that he was at risk for death or permanent injury. See enclosure (10).

k. On 16 May 2002, Petitioner was formally counseled in writing that he was being processed for administrative separation due to his personality disorder and his failure to adapt to military life.⁶ He elected not to make a statement in response to this counseling. See enclosure (11).

l. On 16 May 2002, Petitioner underwent a separation physical examination which found him fit for separation. Petitioner reported pain in his lower jaw due to the removal of his wisdom teeth and knee pain for which he indicated his intent to seek disability compensation from the Department of Veterans Affairs (VA), but did not report any continuing symptoms from his head injury. See enclosure (12).

m. By memorandum dated 12 June 2002, Petitioner company commander recommended that Petitioner be administratively separated from the Marine Corps under other than honorable (OTH) conditions for misconduct due to drug abuse. Specifically, his commander cited Petitioner's use of nitrous oxide as a drug, noting that Petitioner admitted to "huffing" and was punished at NJP. In making this recommendation, Petitioner's company commander opined that Petitioner's actions demonstrated that he no longer possessed the potential for continued honorable service in the Marine Corps. See enclosure (13).

n. By memorandum dated 14 June 2002, Petitioner's immediate supervisor recommended that Petitioner be administratively separated from the Marine Corps. In making this recommendation, his immediate supervisor provided the following statement:

[Petitioner] performs average at times and below average at others. He is capable of performing minimal tasks on his own while other times he requires close supervision from his NCO's. [Petitioner] was counseled numerous times as to his conduct as a Marine. He

⁵ It is not clear from the record what prompted this recommendation, as enclosure (9) reflects that psychiatric hospitalization was not required on 26 March 2002.

⁶ It is not clear from the record what prompted this counseling, as the medical records available for review did not reflect any personality disorder diagnosis. Petitioner was described as exhibiting histrionic traits on 7 February 2002 (see paragraph 3c above) but was not diagnosed with a histrionic personality disorder. The Board presumes that no subsequent action was taken upon the personality disorder separation for which Petitioner was counselled because the prerequisite of a personality disorder diagnosis was not satisfied.

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has lied to fellow Marines about whether or not he is supposed to be at work and has been late to formation several times... In my opinion, [Petitioner] has proven to be incapable of being given responsibility and trust in the platoon.

See enclosure (14).

o. On 3 July 2002, Petitioner was transferred to a different command when his unit deployed before the administrative separation recommendation referenced in paragraph 3n above was acted upon. See enclosure (15).

p. On 30 July 2002, Petitioner was formally counseled in writing for "huffing" nitrous oxide and informed that he would be processed for administrative separation due to drug abuse. He elected not to make a statement in response to this counseling. See enclosure (16).

q. On 6 August 2002, Petitioner was formally counseled in writing for the use of illegal drugs. He acknowledged that he was being processed for administrative separation due to drug abuse and elected not to make a statement in response. See enclosure (17).

r. By memorandum dated 14 August 2002, Petitioner's new company commander concurred with the recommendation of his former commander referenced in paragraph 3n above, recommending that Petitioner be administratively separated from the Marine Corps under OTH. See enclosure (15).

s. On 6 September 2002, Petitioner refused the recommendation of a drug and alcohol counselor that he receive a Medical Officer evaluation for addiction to nitrous oxide. See enclosure (18).

t. On 11 September 2002, Petitioner provided the following hand-written statement:

I have been convicted of huffing Nitrous Oxide. In this statement I hope to provide statements of why I was huffing and where I intend to go with the rest of my life after the Marine Corps.

The reason I was huffing is simple. It was a mistake that I made one weekend. I was not thinking of the consequences [sic] of my actions when I started. If I had taken two seconds to think I probably [sic] never would have huffed.

Now that I am being processed for administrative [sic] separation from the Marine Corps, I plan to continue on with my life as a civilian. Upon [sic] separation [sic] I plan to return [sic] home. At that point I plan to start my own business [sic] as a specialized [sic] printer in photography, and work for my father's new business [sic] in structural plastic design. After words [sic] I plan to become married [sic] and move into my own home.

See enclosure (19).

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u. On 11 September 2002, Petitioner's immediate supervisor provided the following statement regarding Petitioner:

I ... have noticed [Petitioner] does what he's told when he's told but doesn't take any initiative towards being a Lance Corporal. He lacks self discipline, and complains about anything he's tasked to do. Aside of being injured, [Petitioner] continuesly [sic] shows an unsatisfactory appearance. Therefore, [Petitioner] has been informely [sic] councelled [sic] several times and shows no improvement on any manner [sic].

See enclosure (20).

v. On 11 September 2002, Petitioner's platoon sergeant provided the following statement about Petitioner's work habits and overall attitude:

[Petitioner] has been with the Co office for approximately one month and during that time [Petitioner] has been counseled on various occasions by myself or [another named non-commissioned officer], about his attitude towards the Marine Corps and about his overall appearance. [Petitioner] lacks discipline. When tasked to do something he frequently questions why him and then intergets [sic] comments about how much he dislikes the Marine Corps. [Petitioner] has taken even [sic] change he got to try and better himself but has yet to show improvements. I feel that [Petitioner] wants to get out by any means necessary.

See enclosure (21).

w. By memorandum dated 27 September 2002, Petitioner was formally notified via the administrative board procedures that he was being processed for administrative separation for misconduct due to drug abuse based upon his failure of a drug test. See enclosure (22).

x. Petitioner acknowledged receipt of the notification referenced in paragraph 3w above on the same day and waived all of his rights with regard to the administrative separation process after consulting with counsel. See enclosure (23).

y. By memorandum dated 12 September 2002, Petitioner's regimental commander endorsed his company commander's recommendation referenced in paragraph 3r above, further recommending that Petitioner be discharged from the Marine Corps under OTH conditions for misconduct due to drug abuse (nitrous oxide). In making this recommendation, he opined that Petitioner had no potential for further service based upon a personal interview, review of his record and personal statement, and the recommendations of his chain of command. See enclosure (24).

z. By memorandum dated 17 October 2002, the separation authority directed that Petitioner be discharged from the Marine Corps under OTH conditions for misconduct due to drug abuse. See enclosure (25).

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aa. On 7 October 2002, Petitioner was discharged from the Marine Corps under OTH conditions for misconduct. See enclosure (2).

bb. Petitioner submitted a claim for disability benefits to the VA in August 2024 for post-traumatic headaches; traumatic brain injury (TBI) with unspecified depressive and anxiety disorders; and post-traumatic stress disorder (PTSD). See enclosure (26).

cc. On 16 December 2024, Petitioner was granted service connection for his claimed post traumatic headaches and TBI for treatment purposes only.⁷ With regard to the latter, the VA conceded that Petitioner's TBI condition was the result of a motor vehicle accident during which he experienced head trauma in September 2001 and the assault referenced in paragraph 3e above.⁸ He was denied service connection for PTSD, however, because he had no such diagnosis and did not satisfy the diagnostic criteria. See enclosure (26).

4. Procedural Background.

a. Petitioner requested the corrective action referenced in paragraph 1 above in February 2025.⁹ He asserted that the TBI he received as a result of the fight referenced in paragraph 3e above, combined with the previous head injury he incurred during the vehicle accident referenced in paragraph 3cc above, resulted in a change to his personality which contributed to his OTH discharge. He also asserts that he never should have been discharged because the "huffing" for which he was discharged was actually the legitimate use of Albuterol with an inhaler, and that he currently has no recollection of these events due to his head injuries. See enclosure (1).

b. Because Petitioner based his request for relief in part upon his claimed TBI, his records and application were reviewed by a licensed clinical psychologist who provided an advisory opinion (AO) for the Board's consideration. This clinical psychologist opined that the inconsistencies between Petitioner's contemporaneous admission to huffing (see paragraph 3t above) and his current claim denying having engaged in any misconduct raises doubts regarding his candor and the reliability of his recall over time. While acknowledging the evidence that Petitioner experienced a TBI during his naval service, the licensed clinical psychologist opined that there is insufficient evidence to conclude that his misconduct was attributable to TBI or another mental health condition. See enclosure (27).

c. By notarized letter dated 24 June 2025, Petitioner responded to the AO referenced in paragraph 4b above. Specifically, he asserted his belief that the licensed clinical psychologist who provided the AO did not have access to his complete medical and service records and

⁷ The VA granted Petitioner service connection for post traumatic headaches despite the fact that he did not complain of or exhibit such symptoms during his service in the Marine Corps and his own statement during the VA Compensation and Pension (C&P) examination that he began experiencing debilitating headaches after he was involved in a car accident on Christmas Eve 2010, long after his discharge.

⁸ Petitioner reported the vehicular accident during his separation physical of 16 May 2002 (see paragraph 3l above), but there is no record of it in his medical records and no evidence that he ever complained of any head injuries resulting from it. This vehicle accident was not the same as the accident referenced in footnote 7.

⁹ Petitioner's signature on his DD Form 149 was dated 10 February 2025, but his application was not received by the Board until 19 February 2025.

provided additional evidence.¹⁰ He further noted discrepancies in his service record in that neither enclosure (3) nor enclosure (7) was signed by the counselor, suggesting that these omissions raise doubts regarding whether the counseling actually occurred.¹¹ See enclosure (28).

5. Conclusions.¹²

a. Before submitting enclosure (1) to the Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although Petitioner did not file enclosure (1) in a timely manner, it is in the interests of justice to waive the statute of limitations and consider his application on its merits. Such waiver is also directed by references (b) and (c).

c. The Board found no merit to Petitioner's contention that he did not actually engage in the misconduct for which he was discharged. Petitioner's current claim that did not actually huff nitrous oxide but that the test results were the byproduct of his prescribed use of Albuterol is belied by his own contemporaneous statement regarding the matter. Specifically, he stated in a hand-written note dated 11 September 2002 that his act of huffing nitrous oxide was a mistake that he made without thinking about the consequences of his actions. He was also counseled in writing for such conduct and elected not to rebut the accusation; received NJP for such conduct during which he would have had a hearing at which he could have refuted the allegation, the results of which he elected not to appeal; and was formally notified that he was being administratively separated for huffing nitrous oxide and waived all of his rights to refute the allegation even after consulting with counsel. As such, the evidence of record strongly suggests that Petitioner did huff nitrous oxide in violation of reference (e) contrary to his current denial of such conduct. The Board also notes that Petitioner currently claims that he has "NO RECOLLECTION of these events nor much of [his] military service," so his current assertive denial of conduct to which he had previously admitted lacks any credibility.

d. The Board also found no merit to Petitioner's contention that he was severely impaired during his naval service due to his head injuries. His in-service records do not reflect nearly the level of impairment that he now claims. To the contrary, Petitioner's personal statement at the time reflects contemporaneous awareness of his wrongdoing, and his medical records noted none of the symptoms that he now claims. The fact that he, as a Marine, was permitted to refuse medical advice, provides further evidence that he was in his right mind, as his preference in this regard could have and would have been overruled if he exhibited any reason to believe that he was not able to competently make such decisions. The post-service records that Petitioner submitted with his response to the AO at enclosure (27) revealed that he experienced a significant head trauma during a vehicle accident which occurred in December 2010, long after

¹⁰ Petitioner purported to provide the "Left side of [his] service jacket" and his VA C&P examination results. The Board (and the licensed clinical psychologist who provided the AO in question) already had access to Petitioner's entire naval record, and the latter provided no additional information that the Board did not have available from his in-service medical records other than that referenced in footnote 7.

¹¹ The presence of Petitioner's own signature on these counseling forms which are permanently filed in Petitioner's naval record negates any doubt regarding whether the counseling was actually administered.

¹² Except as stated in paragraph 5h below, the Board's conclusions were unanimous.

his discharge, which triggered significant trauma-related symptoms which were not apparent during his naval service. If, in fact, Petitioner is currently unable to remember much of his military service and is otherwise impaired as he now claims, those symptoms are more likely attributable to his post-service trauma than to anything that occurred during his naval service.

e. The Board found a procedural error in Petitioner's discharge for misconduct due to drug abuse, but also found that error to be harmless since the evidence would support his discharge upon a different basis with identical procedures. Specifically, Petitioner should not have been discharged for misconduct due to drug abuse based upon the huffing of nitrous oxide. In accordance with paragraph 6210.5 of reference (f), Marines could be administratively discharged for the illegal, wrongful, or improper use of any controlled substance. However, nitrous oxide was not a controlled substance as defined in reference (e),¹³ so this was the improper basis upon which to discharge Petitioner. However, the use of propellants and inhalants, to include nitrous oxide in particular, was prohibited and made both punitive and subject to adverse administrative action by reference (e). As such, Petitioner act of huffing nitrous oxide constituted a violation of Article 92, UCMJ, and could therefore serve as the basis for administrative separation from the Marine Corps for misconduct due to commission of a serious offense pursuant to paragraph 6210.6 of reference (f). The procedural requirements to administratively separate a Marine for misconduct due to drug abuse are the same as those to separate a Marine for misconduct due to commission of a serious offense. Although his formal notice included reference to the wrong regulatory basis for his separation, it effectively put Petitioner on notice of the factual basis for his separation and Petitioner waived all of his rights with regard to the administrative separation process even after consulting with counsel. Accordingly, the Board found the erroneous regulatory basis for Petitioner's discharge to be clearly harmless.

f. In addition to finding no material error in Petitioner's discharge, the Board also found no error in the assignment of an OTH characterization to that discharge under the circumstances. In accordance with paragraph 1004.2c(2) of reference (f), a discharge under OTH conditions is appropriate when the basis for separation is commission of an act that constitutes a significant departure from the conduct expected of a Marine. Petitioner's huffing of nitrous oxide in violation of reference (e) was such an act. In fact, such conduct is on par with drug abuse, which is an act specifically listed as an act appropriate for discharge under OTH conditions. Accordingly, Petitioner's discharge characterization was appropriate under the circumstances.

g. Because he based his request for relief in whole or in part upon his claimed TBI, the Board reviewed Petitioner's application in accordance with the guidance of references (b) and (c). Accordingly, the Board applied liberal consideration to the occurrence of Petitioner's claimed TBI(s) during his naval service and to the effect that that TBI may have had upon the conduct for which he was discharged. In this regard, the Board found sufficient evidence that Petitioner suffered a TBI during his naval service. Although the Board applied liberal consideration in this regard, it need not have done so since Petitioner's in-service medical records included evidence of the head injury that he suffered on 2 March 2002. However, even applying liberal consideration, the Board found insufficient evidence that Petitioner's misconduct was attributable to that injury. First, Petitioner failed to provide the Board with any

¹³ Controlled substances in this context must be included in one of the schedules of the Controlled Substance Act.

evidence whatsoever suggesting that his TBI changed his personality as he claims. Petitioner exhibited suicidal ideations prior to the fight resulting in his TBI. He also huffed the nitrous oxide in question prior to that fight. Accordingly, there is no basis for the Board to conclude that Petitioner's TBI changed his personality or contributed to his decision to wrongfully huff nitrous oxide. Second, as discussed in paragraph 5b above, it appears that the debilitating symptoms described by Petitioner resulted from his post-service TBI in December 2010 rather than from any TBIs he experienced while in the Marine Corps, as there is no evidence that those symptoms manifested during his service. Accordingly, the Board found insufficient evidence to conclude that Petitioner's misconduct was excused or mitigated by a TBI.

h. In addition to applying liberal consideration to Petitioner's claimed TBI and its potential effect upon Petitioner's conduct in accordance with references (b) and (c), the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (d). In this regard, the Board considered, amongst other factors, the procedural error referenced in paragraph 5c above; that Petitioner suffered TBI(s) during his naval service, even though it found no evidence that that TBI contributed to his misconduct; that Petitioner, although not technically diagnosed with a personality disorder, was apparently temperamentally unsuited for Marine Corps service; the extended delay between Petitioner's misconduct and his eventual discharge; the relatively minor and non-violent nature of Petitioner's misconduct; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. The Board was unable to reach a consensus regarding whether these mitigating factors warranted equitable relief.

(1) The Majority of the Board found the mitigating factors to sufficiently outweigh Petitioner's relatively minor misconduct such as to justify the equitable upgrade of Petitioner's discharge characterization and a change to his narrative reason for separation to mitigate the stigma associated with his discharge. Specifically, the Majority determined that Petitioner's discharge characterization and narrative reason for separation should be equitably changed to "General (under honorable conditions)" and "Secretarial Authority" respectively. However, the Majority did not find the mitigating factors to so significantly outweigh the severity of Petitioner's misconduct such as to justify the extraordinary relief that he requested. In this regard, the Majority believed that it would be unjust to characterize Petitioner's less than honorable service in the same manner as the service of the thousands of Marines who, unlike Petitioner, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Accordingly, the Majority did not find an upgrade of Petitioner's discharge to fully honorable as he requested to be warranted in the interests of justice.

(2) The Minority of the Board did not find the mitigating factors nearly sufficient to justify any equitable relief. In this regard, the Minority noted that Petitioner's substandard conduct and performance in the Marine Corps was not limited to a single instance of huffing nitrous oxide. He was also counseled both formally and informally on numerous occasions for various other deficiencies, including violating orders; UA; failing his PFT; integrity violations; and his poor attitude and appearance. Such conduct, which persisted throughout his relatively short career in the Marine Corps, tended to offset the mitigating factors which might otherwise

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warrant equitable relief. The Minority also noted that Petitioner failed to provide the Board with any evidence or even a description of his post-service conduct or contributions to his community which might otherwise warrant some equitable relief. In accordance with reference (a), Petitioner is entitled to request reconsideration of this decision upon the presentation of new material not previously presented to or considered by the Board. The Minority would encourage Petitioner to avail himself of this opportunity by gathering and submitting evidence of his accomplishments and/or contributions over the nearly 23 years since his discharge in order to provide the Board with at least some rational basis for the equitable relief that he seeks.

6. Recommendations.

a. *Majority Recommendations.* Based upon its conclusions as discussed in paragraph 5 above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

(1) That Petitioner be issued a new DD Form 214 reflecting that his service ending on 7 November 2002 was characterized as "General (under honorable conditions)"; that the narrative reason for his separation was "Secretarial Authority"; that his separation authority was "MARCORSEPMAN par 6214"; and that his separation code was "JFF1." All other entries reflected on Petitioner's current DD Form 214, to include his reentry code, are to remain unchanged.

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

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

b. *Minority Recommendation.* Based upon its conclusions as discussed in paragraph 5 above, the Minority of the Board recommends that no corrective action be taken on 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.

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

11/13/2025

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

___ MAJORITY Recommendation Approved (Partial Relief – I concur with the Majority conclusion and therefore direct the relief recommended by the Majority in paragraph 6a above.)

X MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and direct that no corrective action be taken on Petitioner’s naval record.)

___ Petitioner’s Request Approved (Full Relief – I generally concur with the Majority conclusion that equitable relief is warranted based upon the totality of the circumstances, but I do not believe that the relief recommended by the Majority goes far enough to serve the interests of justice. Specifically, I found that the mitigating factors did so significantly outweigh the severity of Petitioner’s minor misconduct such to warrant the equitable relief that he requested. Accordingly, I direct the relief recommended by the Majority in paragraph 6a above, except that Petitioner’s service ending on 7 November 2002 is to be characterized as “Honorable.” Petitioner shall also to be issued an Honorable Discharge Certificate.)

[REDACTED]