



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

[REDACTED]
Docket No. 1732-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMCR

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

Encl: (1) DD Form 149 with attachments
(2) Case 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 (Board), requesting his characterization of service be upgraded along with a change to his reason for separation and reentry code. Enclosures (1) through (2) apply.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 28 May 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval service records, and 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.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in the interests of justice.

c. Petitioner enlisted in the Marine Corps Reserve and began a period of active duty on 4 May 1982. On 23 July 1982, he was released from active duty after completion of required active service. However, the Board found no DD Form 214 in Petitioner's record to document this period of active duty.

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d. On 10 October 1982, Petitioner began another period of active duty for recruiter aide duty. On 18 February 1983, Petitioner was released after completion of recruiter aide duty.

e. On 15 January 1984, Petitioner was counseled concerning mandatory drill participation and advised that further absences will result in disciplinary action. On 18 March 1984, Petitioner was subject to voluntary orders and accepted the orders.

f. Petitioner was issued a counseling warning issued for unsatisfactory performance as a non-commission officer (NCO). On 22 October 1984, a letter of unsatisfactory participant was mailed to the Petitioner along with letter of intent to administratively reduce him due to unauthorized absences (UA). Petitioner was issued a counseling warning, on 22 October 1984, for being UA from drill.

g. On 6 December 1984, Petitioner was administratively reduced to lance corporal. On 12 December 1984, a letter of intent to recommend Petitioner for discharge due to unsatisfactory participation was mailed via certified mail to the last known address.

h. Unfortunately, some documents pertinent to the Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a 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. The record shows, on 2 May 1985, the separation authority directed Petitioner's Other Than Honorable (OTH) discharge from the Marine Corps by reason of failure to participate. On 15 May 1985, Petitioner was so discharged.

i. Petitioner contends the following injustices warranting relief:

(1) He was separated for unsatisfactory participation that was due to his four hour commuting distance and financial circumstances;

(2) That his situation would be handled differently today and he would have been transferred to a different unit closest to his home of record or transferred to IRR or received a more favorable characterization.

(3) At the time of his move back with his father, he was already underwater with the reserves for missing drills; and

(4) Missing drills were foolish and he takes full responsibility for not investing the efforts to avoid them.

j. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149 and the evidence Petitioner provided in support of his application.

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CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, the Board determined it was in the interests of justice to properly document Petitioner's initial period of active duty service from 4 May 1982 to 23 July 1982. Therefore, the Board concluded the Marine Corps shall conduct a review of Petitioner's service record and issue him a DD Form 214 based on the review.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in characterization of service for the period ending 15 May 1985. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. These included, but were not limited to, Petitioner's desire for a discharge upgrade and his previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his unexcused absences from drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and found that his conduct showed a complete disregard for military authority and regulations. The Board also considered that he failed to fulfill his contractual obligation to the Marine Corps and that unexpectedly absenting himself from the command placed an undue burden on his chain of command and fellow service members, and likely negatively impacted mission accomplishment. Finally, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and concluded that his unexcused absences and disregard for good order and discipline clearly merited his discharge. While the Board carefully considered the evidence Petitioner provided in mitigation and commends Petitioner for his post-discharge good character, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner a discharge upgrade or granting him an upgrade as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

That Petitioner be issued a new DD Form 214, for the period ending on or about 23 July 1982, reflecting his active duty service for training. Headquarters, U.S. Marine Corps will conduct a review of Petitioner's record to ensure Petitioner's dates of service and awards are properly annotated on the DD Form 214.

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XXX XX [REDACTED] SMCR

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.

6/16/2025

[REDACTED]