



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

[REDACTED]  
Docket No. 2032-25  
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] 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 discharge be upgraded to "Honorable." Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 August 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 with a self-reported pre-service history of experimental use of marijuana due to peer pressure and began a period of active duty on 29 April 1993.

c. On 10 December 1993, Petitioner was administratively counseled for lack of judgment and underage drinking. He was issued a second administrative counseling on 23 February 1996 for failure to keep his chain of the command and the medical department informed of his medical status.

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- d. Petitioner was not recommended for promotion to corporal from August 1996 through November 1996 due to lack of judgment, maturity, responsibility, discipline, and initiative.
- e. On 9 April 1997, Petitioner accepted non-judicial punishment (NJP) for wrongful use of marijuana, in violation of Article 112a of the Uniform Code of Military Justice. In addition to his punishment of reduction to the paygrade of E-2, forfeiture of \$505 pay per month for two months, and a suspended period of 45 days restriction and extra duty, Petitioner was also notified of processing for administrative separation by reason of misconduct due to drug abuse. He elected to voluntarily waive his right to a hearing before an administrative separation board.
- f. On 16 April 1997, Petitioner was found medically fit for separation.
- g. The recommendation for Petitioner's administrative discharge under Other Than Honorable (OTH) conditions was approved and he was so discharged on 28 April 1997.
- h. Petitioner previously sought review from the Naval Discharge Review Board (NDRB); which considered his request on 28 February 2005 and denied relief. At that time, he contended that he was young and stupid, and made a one-time ignorant mistake but was otherwise a good Marine. He also felt that he deserved to be eligible for health care from the Department of Veterans Affairs due to significant in-service injuries.
- i. Petitioner now contends that he suffered an ankle injury early during his Marine Corps training which caused persistent pain and weakness during his service. During service, he eventually required surgery to remove a bone spur from his ankle and to graft bone to repair the damage. He later required a second surgery to remove a cyst that developed. He claims to have used marijuana as a means to attempt self-medication of his injury and pain; which resulted in his discharge. For the purpose of clemency and equity consideration, Petitioner provided his counsel's brief, a personal statement, a copy of his current certification for medical marijuana, a post-service substance rehabilitation letter, his service health records documenting his physical injury, a news article reporting the Petitioner rescued "as many as 30 residents" when a multi-family residence caught fire, and three letters of support.

#### 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) intended to be covered by this policy.

In this regard, the Board noted Petitioner's drug abuse misconduct and does not condone it; however, the Board favorably considered the evidence Petitioner submitted in support of multiple clemency factors. Specifically, the Board considered the mitigating factor of Petitioner significant in-service injury, favorable post-service character references, the relative severity of his single instance of marijuana use, the 28 years since his discharge, and his otherwise Honorable Marine Corps service, to include his meritorious actions in rescuing civilians from a

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burning residence<sup>1</sup>. As a result, the Board concluded that the totality of favorable matters in support of clemency outweighed the single instance of drug abuse misconduct which resulted in Petitioner's administrative discharge under OTH conditions. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization 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. Further, the Board determined Petitioner's assigned reason for separation, separation code, and reentry code remain appropriate in light of his record of misconduct and unsuitability for further military service. Ultimately, the Board concluded 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 28 April 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.

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<sup>1</sup> However, the Board was not persuaded by Petitioner's contention that his mental health condition should mitigate his misconduct. The Board noted that Petitioner stated that he used marijuana as a method to self-medicate the pain he was experiencing from his service connected injuries.

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9/18/2025

