



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

[REDACTED]
Docket No. 3169-25
Ref: Signature date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," 3 September 2014
(c) 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
(d) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," 25 August 2017
(e) 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
(f) MCO P1900.16E, Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 18 August 1995
(g) SECNAVINST 1850.4D, Department of the Navy Disability Evaluation Manual, 21 May 1998
(h) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) [REDACTED] Marine Corps Communication-[REDACTED] Special Court-Martial Order [REDACTED], 24 June 1991
(4) NAVMC 118(13), Record of Conviction by Court-Martial (1070), 22 March 1991
(5) NAVMC 118(12), Offenses and Punishments
(6) NAVMC 118(11), Administrative Remarks
(7) NAVMED 6100/5, Abbreviated Limited Duty Medical Board Report, 17 September 1992
(8) [REDACTED] Communications Battalion, [REDACTED] Group CO Memo 1910 59, subj: Administrative Separation Proceedings in the case of [Petitioner], 21 October 1992
(9) Petitioner's Memo 1910 59, First Endorsement on Enclosure (8), subj: Administrative Separation Proceedings in the case of [Petitioner], 21 October 1992

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- (10) [REDACTED] Communications Battalion, [REDACTED] Surveillance, Reconnaissance and Intelligence Group CO Memo 1910 59, Second Endorsement on Enclosure (8), subj: Administrative Separation Proceedings in the case of [Petitioner], 21 October 1992
- (11) [REDACTED] 910 SJA/DT, Fourth Endorsement on Enclosure (8), subj: Administrative Separation Proceedings in the case of [Petitioner], 3 February 1993
- (12) BCNR Letter SJN Docket No: 4221-15, 12 September 2016
- (13) Petitioner's Attorney's E-mail, subj: Re: [Non-DoD Source] Re; Application for Military Record Correction – Status of BCNR Case# NR20240012158, sent Monday, March 24, 2025 @ 11:41:41AM (with accompanying e-mail chain)

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; that his narrative reason for separation be changed to "Secretarial Authority" (with corresponding changes to his separation authority and separation code); and that his reentry code be upgraded.¹²

2. A three-member panel of the Board convened in executive session on 19 December 2025 to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures, and determined by a majority vote that the corrective action reflected in paragraph 6a below should be taken upon Petitioner's 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) – (e).

3. Factual Background. Following are the relevant facts of Petitioner's case based upon review of his naval record and/or the matters he provided for review:

a. Petitioner enlisted in the Marine Corps and commenced a period of active duty service on 11 June 1990. See enclosure (2).

b. On 22 March 1991, Petitioner was convicted by a special court-martial (SPCM) of one specification of stealing government property in violation of Article 121, Uniform Code of Military Justice (UCMJ);³ and eight specification of forgery in violation of Article 123, UCMJ.⁴⁵

¹ Petitioner did not specify the change he desired to his reentry code, but rather requested that it be changed to "correspond" with his other requested corrections. In this regard, Petitioner's currently assigned reentry code of "RE-4" technically corresponds to the narrative reason for separation that he requested. However, the Board presumes that Petitioner intended to request that it be changed to reflect that he was recommended for immediate reenlistment to remove any negative inferences on his DD Form 214.

² Petitioner's application constitutes a request for reconsideration of the Board's previous denial of his request in Docket No. 4221-15.

³ Petitioner was convicted, contrary to his plea, of stealing an envelope belonging to the U.S. Government.

⁴ Petitioner was convicted, pursuant to his pleas, of uttering eight separate American Express Travelers Checks in the amount of \$20 each between 13 November 1990 and 16 November 1990 with intent to defraud in that he altered the signatures on the said travelers checks. According to his personal statement at enclosure (1), Petitioner received these travelers checks from another Marine after he lost gambling during a card game, and the checks were identified as fraudulent when he attempted to use them on base.

⁵ A charged violation of a lawful general order by wrongfully mailing personal mail in a U.S. Government envelope in violation of Article 92, UCMJ, was dismissed by the SPCM; and two charged specifications of larceny in

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He was sentenced to 120 days of confinement; forfeiture of \$250 pay per month for two months; and reduction to pay grade E-1. Block 4A of the NAVMC 118(13) (*Record of Conviction by Court-Martial*) reflects that Petitioner was not represented by counsel during these proceedings. See enclosures (3) and (4).

c. On 24 June 1991, the SPCM convening authority approved and ordered executed the sentence described in paragraph 3b above, but suspended execution of that portion of the sentence extending to confinement in excess of 60 days for a period of six months. See enclosures (3) and (4).

d. On 1 July 1991, Petitioner received non-judicial punishment (NJP) for failing to go at the time prescribed to a rifle range detail on 17 June 1991 in violation of Article 86, UCMJ. His punishment consisted of the forfeiture of \$376 pay per month of two months, and 45 days of restriction and extra duties.⁶ See enclosure (5).

e. As a consequence of the misconduct referenced in paragraph 3d above, the suspension of that part of Petitioner SPCM sentence to confinement in excess of 60 days referenced in paragraph 3c above was vacated. See enclosure (5).

f. On 6 August 1991, Petitioner was formally counseled in writing for the misconduct referenced in paragraphs 3b and 3d above and warned that further misconduct may result in administrative separation or judicial proceedings. He elected not to make a statement in response to this counseling. See enclosure (6).

g. On 14 September 1991, Petitioner received a gunshot wound (GSW) while in a leave status.⁷ The bullet was reportedly not removed due to its proximity to Petitioner's spine. See enclosures (1) and (7).

h. On 25 August 1992, Petitioner was formally counseled in writing regarding an "unauthorized absence and a lack of integrity." He elected not to submit a statement in response to this counseling. See enclosure (6).

i. On 9 September 1992, Petitioner received his second NJP for possessing ammunition in the barracks in violation of Article 92, UCMJ, and for a short period of unauthorized absence (UA) on 4 September 1992 in violation of Article 86, UCMJ.⁸ His punishment consisted of the forfeiture of \$205 pay per month for one month; and 14 days of extra duties and restriction.⁹ See enclosure (5).

violation of Article 121, UCMJ, and 10 charged specifications of forgery in violation of Article 123, UCMJ, were withdrawn by the Government.

⁶ The restriction and extra duty punishments were suspended for six months.

⁷ In enclosure (1), Petitioner stated "I suffered a gunshot wound while home on leave visiting my parents. I grew up in a rough neighborhood and was shot by someone I had words with before joining the Marine Corps."

⁸ Petitioner was allegedly absent from approximately 0630 hours until 0900 hours on 4 September 1992.

⁹ The forfeiture was suspended for a period of six months.

j. On 14 September 1991, a medical board placed Petitioner on limited duty for a period of six months due to the GSW referenced in paragraph 3g above.¹⁰ See enclosures (1) and (7).

k. By memorandum dated 21 October 1992, Petitioner was formally notified via the administrative board procedures that he was being recommended for an administrative discharge from the Marine Corps under other than honorable (OTH) conditions for misconduct due to a pattern of misconduct. Specifically, Petitioner was notified that his SPCM conviction and two NJPs referenced in paragraphs 3b, 3d, and 3i above respectively constituted the pattern of misconduct for which he was being processed for administrative separation. See enclosure (8).

l. Petitioner acknowledged receipt of the notification referenced in paragraph 3k above on the same day and elected to waive all of his rights with regard to the administrative discharge process, to include his right to consult with counsel and to request a hearing before an administrative discharge board. See enclosure (9).

m. By memorandum dated 21 October 1992, Petitioner's battalion commander recommended that Petitioner be administratively discharged from the Marine Corps under OTH conditions for misconduct due to a pattern of misconduct. In making this recommendation, Petitioner's battalion commander opined that "[r]etention of [Petitioner] would adversely affect the morale, discipline, and military effectiveness of this organization." See enclosure (10).

n. On 18 December 1992, Petitioner received his third NJP for failing to go to morning formation on 30 October 1992 in violation of Article 86, UCMJ. He was required to forfeit \$440 pay per month for two months; and was restricted and required to perform extra duties for 45 days.¹¹ See enclosure (5).

o. By memorandum dated 3 February 1993, the separation authority directed that Petitioner be separated from the Marine Corps under OTH conditions for misconduct due to a pattern of misconduct. See enclosure (11).

p. On 8 March 1993, Petitioner was discharged from the Marine Corps under OTH conditions for misconduct due to a pattern of misconduct. See enclosure (2).

q. On 4 January 2018, the Department of Veterans Affairs (VA) granted Petitioner service-connection for post-traumatic stress disorder (PTSD) and an alcohol use disorder with a 70 percent disability rating arising from the gun shot wound described in paragraph 3g above.¹²

4. Procedural Background.

a. Petitioner first sought relief from the Board in 2015. On 10 March 2016, a three-member panel of the Board convened in executive session to review Petitioner's request for corrective action in Docket No. 4221-15 and found insufficient evidence of any error or injustice

¹⁰ The duty limitations consisted of no deployment and physical training at Petitioner's own pace.

¹¹ All adjudged punishments were suspended for a period of six months.

¹² On 3 October 2019, the VA further granted Petitioner service-connection for residual painful scars resulting from the bullet's entry wound on his abdomen, with a 10 percent disability rating.

warranting the requested corrective action. This decision was communicated to Petitioner by letter dated 12 September 2016. See enclosure (12).

b. Petitioner sought reconsideration of the Board's decision in Docket No. 4221-15 in April 2024. However, the Board closed this application in Docket No. 4039-24 when the National Personnel Records Center failed to respond to the Board's request for Petitioner's naval record. Petitioner was informed of that status by letter dated 6 June 2024 sent to the address of his counsel provided on his DD Form 149, but that letter was returned to the Board in August 2024 due to a bad address. A copy of it was then e-mailed to Petitioner after he contacted the Board in December 2024 seeking a status update.

c. Petitioner again sought the relief discussed in paragraph 1 above in December 2024. That case was originally opened as Docket No. 12158-24. However, on 24 March 2025, Petitioner's attorney sent an updated 144-page document to replace his previous application. See enclosure (13). Accordingly, Docket No. 12158-24 was closed, and Petitioner's case was reopened under the present docket number. Through counsel, Petitioner alleged that there were both legal and equitable concerns warranting a discharge upgrade. Specifically, he cited the following bases for relief:

(1) That Petitioner was court-martialed for extremely minor misconduct that did not result in a punitive discharge;

(2) That Petitioner was not provided legal counsel at his court-martial;

(3) That Petitioner did not consult with legal counsel before accepting NJP or before waiving his right to a separation board;

(4) That Petitioner was separated for extremely minor misconduct to include being late to formation (after being severely injustice) and using a single government envelope to mail a personal letter;

(5) That Petitioner should have been medically discharged after being injured while on active duty;

(6) That Petitioner's characterization of service is more fairly characterized as "General (under honorable conditions)" based upon his pro/con marks;

(7) That Petitioner should be granted a discharge upgrade due to inequity and impropriety in his separation;¹³

¹³ The Board notes that equity and propriety are the standards upon which the Naval Discharge Review Board (NDRB) may upgrade a Marine's discharge. In accordance with reference (a), this Board may take corrective action on a Marine's naval record based upon finding of error or injustice, which correspond roughly to the propriety/equity bases applicable at the NDRB.

(8) That Petitioner should be granted a discharge upgrade on the basis of clemency and post-service accomplishment;¹⁴ and

(9) That it is fundamentally unfair for Petitioner to be denied necessary medical treatment as a result of his characterization of service. In this regard, Petitioner's attorney asserted that the VA has withdrawn service-connected coverage of Petitioner's GSW after initially awarding him benefits.

See enclosure (1).

5. Conclusions.¹⁵

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

b. Petitioner's personal appearance, with or without counsel, was not necessary to explain any aspect of Petitioner's application. Accordingly, his request for such an appearance was denied.

c. The Board found insufficient evidence of any error in Petitioner's discharge under OTH conditions for misconduct due to a pattern of misconduct when it was administered. In accordance with 6210.3 of reference (f), a Marine could be separated for misconduct due to a pattern of misconduct when there were two or more discreditable involvements with civil and/or military authorities or two or more instances of conduct prejudicial to good order and discipline within one period of enlistment. Such a pattern could include both minor and more serious infractions. Petitioner had a SPCM conviction and two NJPs during his first enlistment before any action was taken to administratively discharge him upon this basis. Accordingly, the evidence of record reflects that there was a proper factual basis for Petitioner's discharge upon this basis. It also appears that all procedural requirements were satisfied to sustain Petitioner's discharge upon this basis. Specifically, the administrative board procedures were utilized, providing Petitioner with the opportunity to consult with counsel and/or to request an administrative discharge board hearing. Petitioner elected to waive these rights before any action was taken to forward the administrative discharge proceedings against him. While Petitioner claims that this was not a knowing and voluntary waiver, he has provided no evidence supporting this claim. Enclosure (9) includes Petitioner's initials next to each such right, and his affirmative waiver of these rights. In addition to affording Petitioner the opportunity to exercise his due process rights before acting upon his administrative discharge, Petitioner was also counseled in writing regarding his conduct deficiencies and provided the opportunity to improve his conduct before action was taken to administratively discharge him. Specifically, Petitioner was formally counseled in writing regarding the misconduct for which he was convicted at SPCM and which was the subject of his first NJP on 8 August 1991, and warned that further conduct deficiencies could result in adverse administrative consequences, to include administrative separation. Despite this warning, he subsequently engaged in the misconduct which resulted in his third NJP

¹⁴ In this regard, Petitioner cited to some of the guidance of reference (e) regarding factors that the Board should consider when deciding whether to grant relief on the basis of an injustice.

¹⁵ Except as discussed in paragraph 5h below, the Board's conclusions were unanimous.

in October 1991. Accordingly, the requirement of paragraph 6210.3 of reference (c) to counsel a Marine before initiating administrative separation based upon a pattern of misconduct was satisfied in this case. Finally, the characterization assigned to Petitioner's discharge was appropriate under the circumstances. In accordance with paragraph 1004.3c, an OTH characterization may be assigned when the reason for separation is based upon behavior, or omission, that constitutes a significant departure from the conduct expected of a Marine. With a SPCM conviction and two NJPs administered within just over two years of service, Petitioner's conduct objectively constituted a significant departure from the conduct expected of a Marine.

d. The Board found insufficient evidence to support Petitioner's contention that he should have been medically separated or retired due to his gun shot wound. In accordance with reference (g), a case enters the DON Disability Evaluation System (DES) when a medical Evaluation Board (MEB) is dictated for the purpose of evaluating the diagnosis and treatment of a member who is unable to return to military duty because the member's condition most likely is permanent, and/or any further period of temporary limited duty (TLD) is unlikely to return the member to full duty. Petitioner was evaluated by a medical board in September 1992, and that board did not believe that Petitioner's condition warranted referral to the DES. This is unsurprising, as Petitioner had been performing his duties without any medically imposed duty restrictions for over a year since the GSW by that time, and none of the medical evidence in the record suggested that Petitioner would be medically unable to return to full duties after a short period of TLD. While Petitioner's counsel asserts that it was Petitioner's command which refused to process him for medical separation, that is not how the DES works. Rather, individuals are referred to the DES for disability evaluations by medical professionals, and at no time before his discharge did any medical professional believe that Petitioner's GSW was so debilitating as to warrant such a referral. Before the medical assumption that Petitioner could be restored to full duty after a period of TLD could be tested, however, Petitioner engaged in more misconduct resulting in his second NJP, which triggered his command's reasonable decision to initiate administrative discharge processing for a pattern of misconduct. In accordance with paragraph 8605.4 of reference (f), when administrative separation proceedings for misconduct have been initiated and disability evaluation proceeding are being run concurrently, the former takes precedence. Accordingly, even if, hypothetically, the consequences of Petitioner's GSW would have later been determined to warrant referral to the DES, the administrative separation process for misconduct would have taken precedence over the DES processing, negating the unlikely possibility of that his disability separation or retirement would have been warranted if he could not later return to full duties.

e. The Board found insufficient evidence to support Petitioner's contention that he was denied due process or the assistance of counsel at either his SPCM or during his administrative discharge proceedings. Assuming that enclosure (4) accurately reflects that Petitioner was not represented by counsel during his SPCM proceedings, the Board relies upon the presumption of regularity to support the official actions of naval officials. Accordingly, in the absence of evidence to the contrary the Board presumes that naval officials properly performed their functions. Petitioner's SPCM had to be presided over by a military judge, and that judge would not have allowed Petitioner to proceed *pro se* without ensuring that his decision to do so was fully informed and voluntary. This is especially true since Petitioner elected to plead guilty to a certain number of the offenses during these proceedings. Accordingly, if, in fact, Petitioner was

not represented by counsel during his SPCM proceedings, it would have been his knowing and voluntary decision to proceed without counsel. In any case, the outcome of those SPCM proceedings were extremely favorable to Petitioner, resulting in the dismissal or withdrawal of the majority of the charges referred against him and a very modest sentence that did not result in a punitive discharge. With regard to his administrative separation proceedings, Petitioner was informed of his right to consult with counsel and to request an administrative discharge board and affirmatively waived his right to both in enclosure (9). As such, it appears from the record that this was a knowing and voluntary waiver of these rights; Petitioner has the burden to prove otherwise and failed to do so.

f. Because Petitioner based his request for relief in whole or in part upon his claimed PTSD condition, his application was reviewed in accordance with the guidance of references (b) – (d). Accordingly, the Board applied liberal consideration to Petitioner’s contention that he developed PTSD as a result of his GSW in September 1991 and the impact that such a condition may have had upon his conduct resulting in his discharge. In this regard, the Board accepted as true Petitioner’s claim that he developed PTSD as a result of the GSW wound he suffered in 1991. While the Board was not provided any medical evidence supporting this claim, it applied special consideration to the VA’s service-connection determination in accordance with reference (b). Even applying liberal consideration, however, the Board found insufficient evidence that that PTSD condition excused or mitigated the misconduct for which he was discharged. First, the vast majority of the misconduct which constituted Petitioner’s pattern of misconduct predated the September 1991 GSW. His SPCM convened in March 1991 to adjudicate misconduct that occurred the previous November, and he received his first NJP in July 1991 to adjudicate misconduct that occurred in June 1991. As such, Petitioner’s pattern of misconduct was established before the unfortunate event that would have triggered his PTSD. Of the relevant misconduct that contributed to Petitioner’s discharge under OTH conditions, only that which was adjudicated in his second NJP occurred after Petitioner would have developed PTSD. This misconduct consisted of Petitioner’s possession of ammunition in the barracks and his failure to appear at a formation in September 2022, approximately a year after the GSW. The Board could find no logical nexus between this misconduct and a PTSD condition. There are no PTSD symptoms that the Board is aware of which would compel a Marine to defy orders and common sense by having ammunition in the barracks, and missing a formation approximately a year after the GSW is not logically attributable to PTSD. While implementation of avoidance mechanisms may be a natural reaction to PTSD that can mitigate some UAs, the unit formation that Petitioner missed had no relationship to the circumstances of his GSW and Petitioner eventual report for duty negates any potential nexus between this absence and his PTSD. It is fairly obvious that this act of misconduct resulted from Petitioner’s oversleeping and not from the symptoms of a latent PTSD condition. Accordingly, the Board did not find Petitioner’s PTSD condition to excuse or mitigate any of the misconduct for which he was discharged. The Board did, however, consider the fact that Petitioner developed PTSD during his service in the Marine Corps amongst the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice, as discussed in paragraph 5h below.

g. The Board acknowledged Petitioner’s contention that it is “fundamentally unfair for [him] to be denied necessary medical treatment as a result of his characterization of service,” but did not find that to be a valid basis for relief. Medical care may be provided by the VA to members

discharged under OTH for service-connected conditions at the VA's discretion. Accordingly, it is not Petitioner's characterization of service which may be denying him needed medical treatment, but rather the discretion of the VA. Unfortunately, this Board exercises no authority over the VA.

h. Finally, the Board considered the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice in accordance with reference (e). In this regard, the Board considered, amongst other factors (including all of the considerations listed in reference (e)), the relatively minor and non-violent nature of the individual acts of misconduct which constituted Petitioner's pattern of misconduct; that Petitioner completed his Marine Corps service with average proficiency and conduct ratings exceeding that required for an honorable discharge; that Petitioner pled guilty to most of the charges of which he was convicted at his SPCM, thus accepting responsibility for his misconduct and relieving the Government of the burden of proving his guilty beyond a reasonable doubt; that certain members of Petitioner's supervisory chain recommended that Petitioner be discharged with a more favorable characterization than OTH; that Petitioner suffered a GSW and may have developed PTSD as a result of that incident during his Marine Corps service, and presumably continued to suffer the effects of such a condition after his discharge; the physical pain and discomfort that Petitioner presumably suffered during his service as a result of his GSW; Petitioner's post-service record of employment and contributions to his community, reflecting significant rehabilitation and resilience despite the stigma of his OTH discharge; the tragic circumstances of Petitioner's loss of his wife and his resilience to continue on as a single father; the character references provided for the Board's review; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. However, the Board was unable to reach a consensus regarding whether these potentially mitigating factors were sufficient to justify an upgrade to Petitioner's discharge.

(1). *Majority Conclusion.*

(a) The Majority of the Board determined that the equitable considerations discussed above sufficiently outweighed the severity of Petitioner's misconduct to justify some equitable relief. In particular, the Majority found that Petitioner's long post-service record of employment and involvement in his community demonstrated significant rehabilitation, as well as the character references attesting to his work ethic and his favorable character, was compelling and worthy of equitable consideration. Accordingly, the Majority determined that Petitioner's discharge characterization should be upgraded to general (under honorable condition) in the interests of justice.

(b) For the same reason that the Majority believed that Petitioner's discharge characterization should be upgraded, as discussed in paragraph 5h(1)(a) above, the Majority also believe that Petitioner has earned a reprieve from the stigma associated with his adverse narrative reason for his separation. Accordingly, the Majority determined that Petitioner's narrative reason for separation (and its associated separation authority and separation code) should be changed to "Secretary Plenary Authority."

(c) While finding the mitigating circumstances to sufficiently outweigh the severity of Petitioner's misconduct to justify the corrective actions described in paragraphs 5h(1)(a) and 5h(1)(b) above, the Majority did not find those circumstances to so significantly outweigh Petitioner's misconduct to justify the extraordinary relief represented by an upgrade of his discharge characterization to fully honorable or a change to his reenlistment code. In this regard, the Majority noted that the relative severity of a pattern of misconduct is judged not only by the severity of the individual acts of misconduct which constitute the pattern but also by the nature of the pattern itself. With a SPCM conviction and two NJPs within his first two years of service, Petitioner's Marine Corps service was largely dominated by his various actions of misconduct. This is especially true given that those two years of service included a 120 day sentence to confinement and two separate periods of restriction, during which it would be difficult for Petitioner to engage in further misconduct. The Majority also noted that Petitioner's record of misconduct extended beyond that for which he was discharged, as he received a third NJP after his administrative discharge process for a pattern of misconduct was initiated and he was counseled for misconduct which was not included within the pattern for which he was discharged. Even Petitioner's own counsel asserted in enclosure (1) that the quality of his service was akin to a general discharge, rather than an honorable discharge. Finally, the Majority believed it would represent an injustice to recharacterize the quality of Petitioner's service as being on par with that of the thousands of other Marines who routinely fulfill the terms of their enlistments without engaging in conduct deserving of the OTH discharge characterization that Petitioner received. Accordingly, the Majority simply did not believe that an upgrade to Petitioner's discharge characterization to fully honorable was warranted based upon the totality of the circumstances.

(2) *Minority Conclusion.* The Minority of the Board did not find the mitigating circumstances described above to sufficiently outweigh the severity of Petitioner's misconduct to justify any equitable relief. In this regard, the Minority noted that the relative severity of a pattern of misconduct is judged not only by the severity of the individual acts of misconduct which constitute the pattern but also by the nature of the pattern itself. With a SPCM conviction and two NJPs within just over two years of service, Petitioner's service in the Marine Corps was essentially defined by his repeated misconduct. In this regard, the Minority noted that Petitioner was provided with numerous opportunities and warnings to improve his conduct but failed to avail himself of these opportunities. The Minority also found the mitigating factors which might otherwise weigh in favor of equitable relief to be at least partially offset by several aggravating factors. First, Petitioner's in-service misconduct was not limited to that for which he was discharged. He received a third NJP for misconduct occurring even after his administrative discharge for a pattern of misconduct was processed, and his record includes counseling for other misconduct which was not included in the defined pattern for which he was discharged. Petitioner also engaged in criminal conduct after his discharge which tended to offset the considerations of his post-service conduct which might otherwise weigh in favor of equitable relief. Specifically, he was convicted of driving under the influence of alcohol in 1996. In accordance with paragraph 7d of the attachment to reference (e), the Board should consider any post-service arrests, criminal charges, or convictions in determining whether to grant relief on the basis of an injustice. Given these considerations, the Minority simply did not believe that any equitable relief was warranted in the interests of justice.

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

6. Recommendations.

a. *Majority Recommendation.* Based upon its conclusions as discussed in paragraph 5 above, the Majority of the Board recommends that the following corrective action be taken upon 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 8 March 1993 was characterized as "General (under honorable conditions)"; that the narrative reason for his separation was "Secretary Plenary Authority"; that his separation authority was "MILPERSMAN 3630900"; and that his separation code was "JFF1." All other entries reflected on Petitioner's current DD Form 214, including 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 upon 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 upon 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.

3/3/2026

[REDACTED]

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

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

- X MAJORITY Recommendation Approved (Grant Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended in paragraph 6a above.)
- _____ MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken upon Petitioner’s naval record.)
- _____ Alternative Decision (Grant Relief – I generally concur with the Majority conclusion that equitable relief is warranted given the totality of the circumstances, but do not believe that the corrective action recommended by the Board goes far enough to serve the interests of justice. Specifically, I found that the mitigating circumstances did so significantly outweigh the severity of Petitioner’s misconduct to justify upgrading his discharge characterization to fully honorable. Accordingly, I direct the corrective action recommended by the Majority in paragraph 6a above, except that his service is to be characterized as “Honorable” and his reentry code is to be upgraded to “RE-1J.” Petitioner shall also be issued an Honorable Discharge Certificate.)

