

## DEPARTMENT OF THE NAVY

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

> Docket No. 3180-25 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF

USMC

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
- (3) Subject's naval record (excerpts)
- 1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Marine Corps, filed enclosure (1) requesting his characterization of service be upgraded on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.
- 2. The Board, consisting of allegations of error and injustice on 30 June 2023 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, 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, it is in the interest of justice to review the application on its merits.
- c. Petitioner enlisted in the Marine Corps and began a period of active service on 27 August 1996. After a period of continuous Honorable active service, Petitioner re-enlisted on 1 May 2001.

- d. On 19 July 2002, Petitioner was issued an administrative remarks (Page 11) counseling concerning deficiencies in his performance and/or conduct, specifically dereliction of duty while serving as senior guard on duty by not maintaining radio communication with the other guard on duty. Petitioner was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 3 March 2003, Petitioner received non-judicial punishment (NJP) for wrongful use of tetrahydrocannabinol (THC) after his command received notice of positive urinalysis on 25 February 1983.
- e. Petitioner was notified of administrative separation processing, by reason of misconduct due to drug abuse, with a least favorable characterization of service of Under Other Than Honorable conditions (OTH). He consulted with counsel and waived his right to an administrative discharge board. On 7 March 2003, the separation authority directed a discharge with an OTH characterization of service and on 12 March 2003, he was so discharged.
- f. Petitioner contends he desires an upgrade to his characterization of service so he can start receiving benefits from the Department of Veterans Affairs (VA). Petitioner did not provide supporting documentation describing post-service accomplishments or advocacy letters.

## **CONCLUSION**

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial warrants relief. Specifically, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous honorable service for his first enlistment. As a result, the Board determined that Petitioner's record shall be reviewed and corrections made to Block 18, "Remarks," of Petitioner's DD Form 214.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse. The Board carefully considered all potentially mitigating factors, including whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b).

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his NJP in his second enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it involved a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also noted that Petitioner's final Fitness Report included an addendum noting that he "stated he did drugs to beat the new stop-loss policy." Finally, absent an error or injustice, the Board declined to now summarily upgrade Petitioner's discharge solely for the purpose of facilitating veterans' benefits.

As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memos and reviewing the record holistically, the Board did not find evidence

of an error or injustice that warrants granting him the relief he requested or granting relief as a matter of clemency or equity.

## RECOMMENDATION

That Petitioner be issued a correction to DD Form 214 (DD Form 215) correcting Block 18, "Remarks" to indicate "CONTINUOUS HONORABLE ACTIVE SERVICE FROM 960827 UNTIL 010430."

That no further changes be made to Petitioner's record.

That 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.

7/18/2025