

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

e. On 12 June 2006, Petitioner again received a Page 11 counseling concerning his unsatisfactory performance while assigned to the BCP.

f. On 8 September 2006, Navy Drug Laboratory, [REDACTED], reported that Petitioner's urine sample tested positive for cocaine.

g. On 13 October 2006, Petitioner was screened for substance abuse and determined not to meet cocaine or alcohol abuse or dependency criteria.

h. On 26 October 2006, Petitioner was found guilty by a summary court-martial (SCM) for wrongful use of cocaine, in violation of Article 112a, Uniform Code of Military Justice¹.

i. On 6 December 2006, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps by reason of misconduct due to drug abuse. Petitioner was informed of the basis for this recommendation and that the least favorable characterization of service he may receive is under Other Than Honorable (OTH) conditions. Consistent with the terms of his pre-trial agreement, Petitioner was advised of and waived his procedural right to present his case to an administrative discharge board.

j. On 6 December 2006, the commanding officer (CO) recommended to the separation authority that Petitioner be administratively discharged from the Marine Corps by reason of misconduct due to drug abuse with an OTH characterization of service.

k. On 3 January 2007, the separation authority approved the recommendation and Petitioner was so discharged on 18 January 2007. Upon his discharge, he was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that did not annotate his period of continuous Honorable service from 6 July 2001 to 1 October 2005.

l. Petitioner contends the following injustices warranting relief:

(1) He was introduced to a bad crowd at an emotionally vulnerable point in his life, his wife refused to return with him to [REDACTED] and his wife informed him that their marriage was ending.

(2) In July 2006, his personal struggles came to a head when his spouse at the time filed for divorce. This was a dark moment for him as he felt that he was losing everything;

(3) He experimented with cocaine one time while attending a party with his roommate. Before this point in his life and service, he had never used or experimented with cocaine;

(4) When the policies in the Wilkie Memo are applied to his discharge upgrade application, it is evident that his character of service warrants an Honorable discharge and entitles him to other changes to his DD Form 214 based on the mitigating factors surrounding his misconduct and his post service rehabilitative efforts; and

¹ Petitioner entered into a pre-trial agreement on 27 September 2006 to have his case adjudicated at a SCM in exchange for waiving his right to an administrative separation board.

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(5) His discharge should be upgraded based on the superior quality of his service and his hindered capability to serve.

m. 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 he provided in support of it.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. Specifically, as previously discussed, the Board noted Petitioner's period of continuous Honorable service between 6 July 2001 and 1 October 2005 is not annotated on his DD Form 214 and requires correction.

Applicable regulations authorize the language "Continuous Honorable Active Service" in Block 18 (Remarks) of the DD Form 214, when a service member has previously reenlisted without being issued a DD Form 214 and was separated with a discharge characterization except "Honorable." As a result, the Board determined Petitioner's naval record shall be corrected to reflect his continuous Honorable active service. Further, the Board concluded that Petitioner's record shall be reviewed, and that corrections shall be made to Block 12a – 12h, as appropriate.

Regarding Petitioner's requests for relief, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in his case in accordance with reference (b). These included, but were not limited to, Petitioner's desire for a discharge upgrade and the requested changes to his record, and the previously mentioned contentions raised by Petitioner in his application.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his SCM conviction, 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. Further, the Board also considered the likely negative impact his conduct had on the good order and discipline of his unit. Furthermore, the Board determined that the evidence of record did not demonstrate that Petitioner was not responsible for his conduct or that he should otherwise not be held accountable for his actions. The Board found that his misconduct was intentional and made him unsuitable for continued naval service.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. Even in light of reference (b) and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting any additional relief 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. Accordingly, given the totality of the circumstances, the Board determined that no other relief is merited.

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RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record:

Petitioner shall be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 18 January 2007, with a correction to the Remarks Section, Block 18, annotating "Continuous Honorable Active Service: 6 July 2001 to 1 October 2005."

Petitioner's record shall be reviewed to make any corrections to Blocks 12a – 12h, as appropriate, based on his period of continuous Honorable service from 6 July 2001 to 1 October 2005.

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

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

4. It is certified that 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 Regulations, 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.

8/18/2025

