



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

█
Docket No. 3904-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
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Ref: (a) 10 U.S.C. § 1552
(b) 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
(c) MCO P1900.16B, Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 23 March 1978
(d) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) NAVMC 118(3), Chronological Record
(4) NAVMC 118 (12), Offenses and Punishments
(5) DD Form 458, Charge Sheet (excerpt)
(6) █ SJA Memo 17/JER/cjc 1900, subj: Good of the Service Discharge Request; case of [Petitioner], 13 March 1979
(7) █ Memo 17/PRB:prb 5800, subj: Psychiatric Evaluation; case of [Petitioner], 6 March 1979
(8) Petitioner's Memo, subj: Request for discharge under other than honorable conditions for the good of the service, 8 March 1979
(9) NAVSO 1900/5C, NDRB Review of Discharge, Docket No. MD-80-01383

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, hereinafter referred to as the Board, requesting that his characterization of service be upgraded to honorable.

2. The Board reviewed Petitioner's allegations of error or injustice on 7 July 2025 and, pursuant to its governing policies and procedures, determined by a majority vote that the corrective action recommended below should be taken on 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 reference (b).

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3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

a. Before applying to the 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 interests of justice to waive the statute of limitations and review Petitioner's application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty service on 30 August 1977. See enclosure (2).

d. On 5 December 1977, Petitioner reported for his first duty assignment upon completion of his initial entry training at [REDACTED]. See enclosure (3).

e. On 2 November 1978, Petitioner commenced a period of unauthorized absence (UA) which continued until his surrender to military authority on 9 February 1979. See enclosure (4).

f. On 15-16 February 1979, Petitioner failed to appear at the time prescribed for three separate formations and willfully violated the orders of several superior noncommissioned officers. See enclosure (5).

g. On 16 February 1979, Petitioner was placed into pretrial confinement. See enclosure (6).

h. Petitioner was subsequently charged with four specifications in violation of Article 86, Uniform Code of Military Justice (UCMJ),¹ and four specifications in violation of Article 91, UCMJ.² See enclosure (5).

i. By memorandum dated 6 March 1979, Petitioner's defense counsel requested a psychiatric evaluation of Petitioner. The [REDACTED] Psychiatrist subsequently met with Petitioner and provided the following statement on 8 March 1979:

I have talked to this subject extensively. What I understand from what he stated is that if he ever decided on anything he wants to do, he never backs down in his decision no matter how unrealistic and immature it is. Concerning his difficulties in the Marine Corps, he believed that he has been lied too to [sic] many times and that he absolutely has convinced himself that he does not want to be any part of the Marine Corps. Like a child, he would not stop kicking the wall until he gets out. He is very sincere in his conviction to cause difficulties not only for himself but for others. His sincerity is much [sic] only by the immature intensity in pursuing what he feels he would like to do. It is very obvious that he has a moderately severe immature character disorder, [existing prior to his entry into the Marine Corps]. This condition would not be benifited [sic] by hospitalization or out-patient therapy. I am

¹ These specifications pertained to Petitioner's UA from 2 November 1978 to 9 February 1979 referenced in paragraph 3e, and his failure to appear at the three separate formations referenced in paragraph 3f.

² These specifications pertained to Petitioner's disobedience of the orders of superior noncommissioned officers referenced in paragraph 3f.

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endorsing a [good of the service (GOS)] discharge on this subject not because I am allowing him an easy way out of his situation. What my endorsement means that somewhere, somehow in his life (unfortunately it has not happened yet) he has to realize that kicking the wall does not produce anything. If he someday (I hope not) wake [sic] up and look back with strings of broken commitments, I hope by that time he would change his ways. Until he changes his ways, it would merely be a power play. This time, he already has set himself up to pay for the frivolity of this choice. With this understanding, the most compassionate thing I could do, is to prevent him from going deeper in trouble and recommending for a GOS.

See enclosure (7).

j. By memorandum dated 8 March 1979, Petitioner requested a discharge for the good of the service to escape trial by court-martial with the advice and assistance of counsel. In making this request, Petitioner acknowledged that his discharge, if approved would be under other than honorable (OTH) conditions. Petitioner attached a letter from his father to this request which described his dissatisfaction with the Marine Corps due to the denial of the opportunity to receive computer training and a related MOS which he felt had been promised to him. See enclosure (8).

k. Petitioner's battalion commander subsequently recommended approval of Petitioner's discharge request based upon Petitioner's attitude and the psychiatric evaluation referenced in paragraph 3i above. See enclosure (6).

l. By memorandum dated 13 March 1979, the separation authority's Staff Judge Advocate recommended that Petitioner's discharge request be disapproved because he believed the charges pending against Petitioner were best resolved judicially.³ See enclosure (6).

m. On 19 March 1979, the separation authority approved Petitioner's request for a discharge for the good of the service to escape trial by court-martial and directed his separation under OTH conditions.⁴ See enclosure (9).

n. On 25 March 1979, Petitioner was discharged from the Marine Corps under OTH conditions. See enclosure (2).

o. On 31 December 1979, Petitioner requested a discharge upgrade from the Naval Discharge Review Board (NDRB). In support of his request, Petitioner provided the following statement:

I seek review of discharge to obtain a fair and honest evaluation of my actions, my intentions, and my devotion during my period of enlistment. I also seek just reprimand pertaining to the \$900.00 I invested in my educational fund while serving active duty and back pay due me for 23 days of a accumulated [sic] vacation which was unjustly disallowed me upon discharge I

³ There is a hand-written note on this memorandum stating, "We should try to salvage."

⁴ Petitioner claims that the separation authority offered to transfer Petitioner to a computer MOS contingent upon his agreement to a three-year reenlistment, but Petitioner refused this offer.

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have served my time with honor and integrity and I challenge the Marine Corps to meet these same rigid levels of character standards in dealing with my case.

See enclosure (9).

p. On 10 June 1980, the NDRB unanimously determined that Petitioner's discharge under OTH conditions was equitable and proper, and that no upgrade was therefore warranted. In making this determination, the NDRB stated that Petitioner's "offenses reflect a degree of aggravation which warrant[s] characterization of [Petitioner's] service as under [OTH] conditions by showing his abandonment of sworn duty and obligation." See enclosure (9).

q. Petitioner contends that relief is warranted because his enlistment in August 1977 was predicated on a promise from his recruiter of computer training and subsequent work experience within a computer-related Military Occupational Specialty. He further claims that he was then offered a position at the U.S. Naval Academy with a 10-year reenlistment obligation when he informed his command about this promise, but instead elected to report to his duty station at [REDACTED] and to submit a transfer request upon his arrival. Finally, Petitioner claims that his commander at [REDACTED] conditioned submission of his transfer request upon his graduation at the top of the Amphibious Vehicle Crewman courses, which he achieved. Despite meeting this obligation, he claims to have later learned that no transfer request was ever filed. Under these circumstances, and while suffering back pain from injuries aggravated during a training exercise, he claims to have taken a three-month period of UA "to allow [his] back to rest and recover." See enclosure (1).

MAJORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Majority of the Board determined that equitable relief is warranted in the interests of justice:

The Majority found no error in Petitioner's discharge under OTH conditions when it was administered. First, Petitioner was not involuntarily separated from the Marine Corps. He was discharged upon his own request to escape the consequences of his UA and subsequent disobedient conduct. In accordance with reference (c), a Marine could be separated upon request in lieu of trial by court-martial if charges have been preferred with respect to an offense for which a punitive discharge is authorized and it is determined that the Marine is unqualified for further military service. Petitioner was, in fact, charged with an offense for which a punitive discharge was authorized, and he requested to be discharged in lieu of trial by court-martial for that offense with the advice of counsel. Accordingly, the factual predicate for Petitioner's discharge upon this basis was satisfied. It also appears that all procedural requirements were satisfied to sustain Petitioner's discharge, as he made this request in writing after consulting with counsel and admitted to his commission of the offense in question. He also acknowledged that his discharge would be under OTH conditions if his request was accepted. Finally, reference (c) provided that the characterization of service assigned upon acceptance of a resignation for the good of the service to escape trial by court-martial is normally under OTH conditions. In this regard, the Board did not find credible Petitioner's claim that the separation authority tried to obtain an honorable discharge for him. An honorable discharge was not authorized under the

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circumstances in accordance with reference (c), but the separation authority was empowered to characterize Petitioner's service as "general (under honorable conditions)" if he deemed such characterization to be warranted. The fact that he did not do so severely undermines the credibility of Petitioner's claim that the separation authority "made a further attempt to secure an honorable discharge for [him]."

In addition to reviewing the circumstances of Petitioner's discharge when it was administered for error, the Majority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Majority considered, amongst other factors, Petitioner's dissatisfaction with the Marine Corps based upon his belief that he had been misled; that Petitioner was diagnosed with an immature character disorder which was reflected in his conduct; the back pain that Petitioner has reportedly endured since his discharge; that Petitioner apparently excelled during his training as an Amphibious Vehicle Crewmember; the non-violent nature of Petitioner's misconduct; Petitioner's post-service record of academic and professional accomplishment despite the stigma of his OTH discharge; the character references provided for review; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. Based upon these considerations, the Majority determined that some equitable relief is warranted in the interests of justice. Specifically, the Majority found these mitigating factors sufficient to justify upgrading Petitioner's discharge characterization to "General (under honorable conditions)" and changing his narrative reason for separation to alleviate the stigma associated with his service in the Marine Corps.

While the Majority found the mitigating factors sufficient to justify the equitable relief described above, it did not find those factors nearly sufficient to justify recharacterizing Petitioner's service in the Marine Corps as honorable. A three-month UA constitutes significant misconduct, and Petitioner aggravated that misconduct with his disobedient conduct upon his return to duty. Further, while his discontent with the Marine Corps was understandable given the circumstances, his response to that discontent was extremely selfish and detrimental to the morale, welfare, good order, and discipline of his unit. Petitioner's enlistment documentation does not reflect the promises that he claims to have been made, so his discontent with the terms of his enlistment was at least partially his own fault. Finally, Petitioner's command offered him the opportunity to receive the training that he desired and to escape the consequences of his bad decisions by simply reenlisting in order to make the provision of such training worth the Marine Corps' investment, but he refused this generous offer. Given these circumstances, the Majority determined that the extraordinary relief represented by Petitioner's request for an honorable discharge upgrade is not in the interests of justice, but rather would represent an injustice to the thousands of Marines who faithfully fulfill their contracted obligation regardless of the adversities involved.

MAJORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

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That Petitioner be issued a new DD Form 214 reflecting that his service ending on 26 March 1979 was characterized as "General (under honorable conditions)"; that his narrative reason for separation was "Directed by the Secretary of the Navy to correct official records"; that his separation authority was "MARCORSEPMAN 6012.1g;" and that his separation code was "JFF2." All other entries on Petitioner's current DD Form 214, to include his reentry code, are to remain unchanged.

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

That no further corrective action be taken on Petitioner's record.

MINORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Minority of the Board found insufficient evidence of any error or injustice warranting corrective action.

The Minority concurred with the Majority conclusion that there was no error in Petitioner's discharge under OTH conditions when it was administered.

Like the Majority, the Minority also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Minority considered the same potentially mitigating factors as did the Majority but reached a different conclusion. Specifically, the Minority found that Petitioner's three-month UA alone far outweighed all of the mitigating factors relied upon by the Majority to justify its recommendation. However, Petitioner's misconduct was not limited to that UA. Rather, he engaged in multiple instances of disobedient conduct upon his return to duty, necessitating his placement into pretrial confinement. The Minority also noted that Petitioner was afforded significant leniency when his voluntary discharge request was approved. This allowed him to escape the additional jail time and punitive discharge which likely would have followed such a court-martial. Finally, the Minority noted that the separation authority provided Petitioner with a golden opportunity to both escape the consequences of his misconduct and to achieve his stated goal of computer training, but Petitioner refused this extremely generous offer. These factors tended to offset the mitigating factors relied upon by the Majority. As a result, the Minority found that the severity of Petitioner's misconduct far outweighed the mitigating factors, and that equitable relief is therefore not warranted in the interests of justice.

MINORITY RECOMMENDATION:

Based upon its conclusions as discussed above, the Minority of the Board recommends that no corrective action be taken on 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 titled matter.

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5. The foregoing action of the Board is submitted for your review and action in accordance with Section 6e(1)(b) of Enclosure (1) to reference (d).

9/29/2025



ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

MAJORITY Recommendation Approved (Partial Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)

MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)

Petitioner’s Request Approved (Grant Relief – I generally concur with the Majority conclusion that equitable relief is warranted based upon the totality of the circumstances, but do not believe that the corrective action recommended by the Majority goes far enough to serve the interests of justice. Specifically, I found that the mitigating circumstances did so significantly outweigh Petitioner’s relatively minor misconduct such as to justify upgrading his characterization of service to fully Honorable. Accordingly, I direct the corrective action recommended by the Majority above, except that Petitioner’s service ending on at Petitioner be issued a new DD Form 214 reflecting that his service ending on 26 March 1979 shall be characterized as “Honorable.” Petitioner shall also be issued an Honorable Discharge Certificate.)

