



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

Docket No. 4974-25

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) Title 10 U.S.C. §1552

(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)

(c) USECDEF Memo of 25 Aug 2017 (Kurta Memo)

(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments

(2) Naval record (excerpts)

(3) Advisory opinion

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 for an upgrade of his characterization of service and reinstatement of his rank and forfeitures of pay.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 September 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 references (b) through (d). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional, that was considered favorable to Petitioner.

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 regulation within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, the statute of limitation was waived in accordance with the Kurta Memo.

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 24 January 2005.

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d. On 7 July 2005, Petitioner reported to [REDACTED] Battalion, [REDACTED] Marines, [REDACTED] Marine Division for duty.

e. Petitioner deployed to Afghanistan in support of Operation Enduring Freedom from January 2006 to May 2006.

f. On 18 March 2006, Petitioner received non-judicial punishment (NJP) for dereliction of duty. He received a Page 11 Counseling concerning his deficiencies in performance and conduct and advised that failure to take corrective action may result in administrative separation.

g. On 17 May 2006, Petitioner received his second NJP for willfully disobeying a lawful order and dereliction of duty. He received another Page 11 Counseling concerning his deficiencies in performance and conduct and advised that failure to take corrective action may result in administrative separation.

h. On 25 August 2006, Petitioner received his third NJP for attempted assault of the base gate police and drunk and disorderly conduct. He received his third Page 11 Counseling concerning his deficiencies in performance and conduct and advised that failure to take corrective action may result in administrative separation.

i. On 20 November 2006, Petitioner was awarded a [REDACTED]

j. On 18 February 2007, Petitioner received his fourth NJP for two specifications of disobeying a lawful order.

k. Petitioner deployed to [REDACTED] in support of [REDACTED] from March 2007 to October 2007.

l. On 9 April 2008, Petitioner tested positive for marijuana.

m. On 15 May 2008, Petitioner signed a pretrial agreement (PTA), waiving his right to a hearing before an administrative separation board and agreeing to enter a guilty plea at his pending Summary Court Martial. Subsequently, 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 advised of his procedural rights, elected to consult with counsel, and, in accordance with his PTA, waived his right to present his case to an administrative discharge board.

n. On 16 May 2008, Petitioner received Summary Court Martial for wrongful use of marijuana.

o. Petitioner's commanding officer (CO) recommended to the separation authority (SA) that Petitioner receive an Other Than Honorable (OTH) characterization of service.

p. The SA accepted the CO's recommendation and Petitioner was so discharged on 27 August 2008.

q. Petitioner contends the following injustices warranting relief:

(1) The official separation of pattern of misconduct and substance/drug abuse was influenced by the beginning states of Post-Traumatic Stress Disorder (PTSD);

(2) The resulting patterns show a gradual increase of PTSD symptoms that continue to get worse;

(3) His records reflect early stages of PTSD and support a case of a young Marine self-medicating, via alcohol, marijuana, and prescribed medication, to treat depression;

(4) The record also reflects average proficiency and conduct marks that are inconsistent with misconduct and support a good Marine; and

(5) He delayed his request due to shame. He was determined to prove that his separation status would not define his future in the civilian world. He now can honestly state that he made a huge mistake, thinks about his military experience daily, and is at a breaking point.

r. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149, personal statement, and annotated pages from his service and medical records.

s. As part of the Board's review, a qualified mental health professional reviewed Petitioner's contentions and the available records and provided the Board with enclosure (3). The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation. He received proper evaluation and treatment during his military service. His PTSD, substance use disorder, and other mental health diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. His in-service misconduct appears to be consistent with his mental health conditions. Post-service, the Petitioner has described the death of a unit member prior to the onset of his misconduct. It is plausible that disobedience and problematic substance use may be considered behavioral indicators of PTSD.

The AO concluded, "it is my considered clinical opinion that there is in-service evidence of diagnoses of PTSD and other mental health concerns that may be attributed to military service. There is post-service evidence from the Petitioner to attribute his misconduct to PTSD and other mental health concerns."

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief.

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The Board found no error in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse. However, because Petitioner based his claim for relief in whole or in part upon his PTSD, the Board reviewed his application in accordance with the guidance of references (b) through (d). The Board applied liberal consideration to Petitioner's PTSD experience and the effect that it may have had upon his misconduct. Ultimately, the Board agreed with the AO conclusion that there is both in-service and post-service evidence of PTSD and sufficient evidence that Petitioner's misconduct may be attributed to PTSD.

In applying liberal consideration to Petitioner's PTSD and any effect that it may have had upon his misconduct, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice. In this regard, the Board considered, among other factors, the mitigating effect of Petitioner's PTSD may have had upon his misconduct. After thorough review, the Board found that Petitioner's PTSD did have an effect on his misconduct and the mitigating circumstances of his PTSD outweighed the misconduct for which Petitioner was discharged. Therefore, the Board determined the interests of justice are served by upgrading Petitioner's characterization of service to Honorable and changing his reason for separation to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board was not willing to reinstate Petitioner's rank or forfeitures resulting from his misconduct. As explained above, the Board found no error with Petitioner's discharge based on his misconduct. Further, the Board determined Petitioner's assigned reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 27 August 2008, he was discharged with an "Honorable" characterization of service, narrative reason for separation of "Secretarial Authority," SPD code of "JFF1," and separation authority of "MARCORSEPMAN par 6214."

That Petitioner be issued an Honorable discharge certificate.

That no further correction action be taken on Petitioner's naval 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

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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.

9/11/2025

