



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

██████████
Docket No. 5669-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

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 P1900.16, Marine Corps Separation Manual (Short Title: MARCORSEPMAN)
(d) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149, signed 12 May 2025 (w/enclosures)
(2) DD Form 214MC, 1 March 1977
(3) NAVMC 118(3), Chronological Record
(4) NAVMC 118(5), Record of Time Lost, Promotion, Reduction, Examination or Promotion (1070)
(5) NAVMC 10132, Unit Punishment Book (5812)
(6) Petitioner's Memo, subj: Request for discharge under other than honorable conditions for the good of the service, 14 February 1977
(7) ██████████ SJA Memo 17/GLB/dcg 1910, subj: Discharge under other than Honorable Conditions; case of [Petitioner], 18 February 1977 (with ██████████ ██████████ CG Action, 23 February 1977)
(8) DD Form 214 (19871028 – 19971031)
(9) NAVSO 1900/5C, Naval Discharge Review Board Review of Discharge, Docket No. MD-77-03279, 7 July 1977

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 characterization of service be upgraded.

2. A three-member panel of the Board convened in executive session to review Petitioner's allegations of error or injustice on 25 November 2025 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 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. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record:

a. Petitioner enlisted in the Marine Corps and commenced a period of active duty service on 7 October 1975. See enclosure (2).

b. On 9 April 1976, Petitioner reported for his first duty assignment after completion of his initial recruit training at [REDACTED]. See enclosure (3).

c. On 8 July 1976, Petitioner commenced a period of unauthorized absence (UA) which continued until his return to military control 20 days later on 28 July 1978. See enclosure (4).

d. On 29 July 1976, Petitioner commenced a second period of UA which continued until his return to military control 28 days later on 26 August 1976. See enclosure (4).

e. On 27 August 1976, Petitioner commenced a third period of UA which continued until his return to military control the following day on 28 August 1976. See enclosure (4).

f. On 5 November 1976, Petitioner commenced a fourth period of UA which continued until his return to military control 90 days later on 3 February 1977. See enclosure (4).

g. On 7 February 1976, Petitioner was charged with four specifications of UA in violation of Article 86, Uniform Code of Military Justice (UCMJ), based upon the UAs referenced in paragraphs 3c – 3f above. See enclosure (5).

h. The charges referenced in paragraph 3g above were referred to a special court-martial (SPCM) empowered to adjudge a bad-conduct discharge (BCD) on 10 February 1977. See enclosure (5).

i. By memorandum dated 14 February 1977, Petitioner requested a discharge under other than honorable (OTH) conditions for the good of the service to escape trial by court-martial. In making this request, Petitioner attested that he had consulted and was "entirely satisfied" with the advice of his detailed defense counsel. His request was also endorsed by the same defense counsel. See enclosure (6).

j. By memorandum dated 18 February 1977, the Staff Judge Advocate to the general court-martial convening authority (GCMCA) recommended that Petitioner's request for discharge under OTH conditions to escape trial by court-martial be approved after finding the proceedings to be correct in law and fact. See enclosure (7).

k. On 23 February 1977, the GCMCA approved Petitioner's request for discharge under OTH conditions for the good of the service to escape trial by court-martial. See enclosure (7).

l. On 1 March 1977, Petitioner was discharged from the Marine Corps under OTH conditions. See enclosure (2).

m. Petitioner subsequently enlisted in the Navy and ultimately was credited with more than 20 years of active service (including the credit that he received for approximately 13 months in the Marine Corps). He received four Good Conduct Medals in the Navy and rose to the grade of E-6. Petitioner was honorably discharged from the Navy with sufficient service for retirement on 31 October 1997, and transferred to the Fleet Reserve. See enclosure (8).

4. Procedural Background.

a. Petitioner requested a discharge review from the Naval Discharge Review Board (NDRB) almost immediately upon his discharge from the Marine Corps. He asserted in this request that his mistake shouldn't affect his entire life; that he had marital problems due to his separation from his wife and child and his wife's desire to go to school; and that he received ineffective assistance of counsel when he was advised to request a discharge. On 17 November 1977, the NDRB unanimously found no inequity or impropriety in Petitioner's discharge under OTH conditions. See enclosure (9).

b. Petitioner submitted enclosure (1) to the Board in May 2025, requesting the corrective action described in paragraph 1 above.¹ Specifically, he informed the Board of his honorable service in the Navy referenced in paragraph 3m above, and requested that it be taken into account. He also claimed that he was "advised by the chaplain that AWOL for less than 30 days during several periods would likely result in an admin discharge," and that he felt "useless" after boot camp with nothing to keep his mind and body sharp. Finally, he asserted that he was commended by the "holding company" first sergeant upon his discharge for being a model Marine while awaiting discharge. See enclosure (1).

5. Conclusions.²

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 interests of justice to waive the statute of limitation and consider Petitioner's application on its merits.

c. The Board found no error or injustice in Petitioner's discharge for the good of the service to escape trial by court-martial when it was administered. Petitioner's misconduct is not in controversy, as it was well documented in his record and not disputed in his current application. Accordingly, there is insufficient evidence of error in the preferral of court-martial charges against Petitioner for four separate UAs in violation of Article 86, UCMJ. While Petitioner claims to have received bad advice from a chaplain that UAs of less than 30 days would likely be resolved through administrative means rather than by court-martial, he did not limit the duration of his UAs to less than 30 days. Under the circumstances, preferral of court-martial charges was appropriate and entirely reasonable. In accordance paragraph 6419.1 of reference (c), "[a] Marine may be separated upon request in lieu of trial by special or general courts-martial if

¹ Petitioner signed his DD Form 149 on 12 May 2025, and it was received by the Board along with its supporting documentation on 21 May 2025.

² Except as described in paragraph 5d below, the Board's conclusions were unanimous.

charges have been preferred with respect to an offense or which a punitive discharge is authorized and it is determined that the Marine is unqualified for further military service.” The 90-day UA referenced in paragraph 3f above authorized a punitive discharge by itself, and the combination of each of the multiple UA charges would have authorized a punitive discharge under the escalator clause in Section B of paragraph 127C of the Manual for Court-Martial, 1969 edition.³ Accordingly, the factual predicate for Petitioner’s discharge for the good of the service to escape trial by court-martial was satisfied. It also appears from the record that all procedural requirements were satisfied to sustain Petitioner’s discharge upon this basis, as Petitioner voluntarily made the request after consulting with counsel. Finally, the Board found no error or injustice in the OTH characterization assigned to Petitioner’s discharge upon his request. In accordance with paragraph 6419.2 of reference (c), the characterization of service normally assigned to a discharge upon this basis is OTH. Considering the nature of Petitioner’s misconduct and that his alternative was a likely court-martial conviction, significant confinement, and a BCD, the OTH characterization that Petitioner received was both reasonable and appropriate.

d. In addition to reviewing the circumstances of Petitioner’s discharge at the time that it was administered for error, the Board also considered the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice in accordance with reference (b). In this regard, the Board considered, amongst other factors, that Petitioner subsequently reenlisted in the Navy and went on to serve honorably for many years and achieve retirement eligibility, demonstrating his successful rehabilitation from his youthful indiscretions; Petitioner’s claim that his UAs were motivated by his feelings of uselessness after completion of boot camp; Petitioner’s claim that he was commended by the holding company first sergeant for being a model Marine while awaiting his discharge; the non-violent nature of Petitioner’s misconduct; Petitioner’s relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner’s discharge. The Board members, however, were unable to reach a consensus regarding whether these potentially mitigating factors were sufficient to justify any equitable relief.

(1) The Majority of the Board found the combined weight of these mitigating factors to sufficiently outweigh the severity of Petitioner’s discharge to justify some equitable relief. Specifically, the Majority believed that an equitable upgrade of Petitioner’s discharge characterization to “General (under honorable conditions)” and a change to his narrative reason for separation to alleviate the stigma associated with his Marine Corps service were warranted by these mitigating factors in the interests of justice. In particular, the Majority believed that Petitioner’s subsequent long and honorable service in the Navy demonstrated that the misconduct that Petitioner engaged in the Marine Corps was a youthful indiscretion and not reflective of his true character, and entitled him to favorable consideration in this regard. While finding the mitigating factors sufficient to justify upgrading Petitioner’s discharge characterization to “General (under honorable conditions),” the Majority did not find those factors sufficient to upgrading Petitioner’s discharge characterization to fully honorable. In this regard, the Majority believed it would be an injustice to recharacterize Petitioner’s OTH Marine Corps service to

³ Paragraph 6419.1 of reference (c) explicitly permitted reliance upon this escalator clause to support discharge upon this basis.

describe its quality as being on par with that of the thousands of other Marines who have actually performed their duties and completed their enlistments honorably.

(2) Contrary to the Majority, the Minority of the Board did not find the mitigating factors sufficient to justify any equitable relief. While finding Petitioner's subsequent service in the Navy to be praiseworthy, the Minority did not find it to be particularly relevant to the characterization of Petitioner's earlier service in the Marine Corps. That service was characterized by four separate periods of UA totaling 139 days, and his claim to have been told by a chaplain that UAs of less than 30 days would be disposed of through an administrative discharge only aggravated his misconduct in the Minority's view because it suggests that that misconduct was calculated to escape his obligation to the Marine Corps. Petitioner essentially finished boot camp and then abdicated all of his responsibilities as a Marine. The Minority also believed that Petitioner was already the beneficiary of significant leniency by the Marine Corps, as he likely would have been convicted by a SPCM, subjected to considerable jail time, and adjudged a BCD if his voluntary discharge request was denied. This outcome would have foreclosed his ability to later serve honorably in the Navy, and his avoidance of these consequences significantly offset the mitigating factors that might otherwise weigh in favor of equitable relief in the Minority's opinion. The Minority simply did not find any sufficient basis to justify recharacterizing Petitioner's OTH service as anything other than what it was.

6. Recommendations.

a. *Majority Recommendations.* 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 1 March 1977 was characterized as "General (under honorable conditions)"; that the narrative reason for his separation was "Convenience of the Government – When directed by the Secretary of the Navy"; and that his separation authority was "MARCORSEPMAN 6012.1g" (with a corresponding correction to his separation code). All other entries reflected on Petitioner's current DD Form 214, to include his reenlistment 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.

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8. 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).

1/22/2026

[REDACTED]

Executive Director

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

X MAJORITY Recommendation Approved (Grant Relief – I concur with the Majority conclusions and therefore direct the corrective action recommended by the Majority in paragraph 6a above.)

— MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusions and therefore direct that no corrective action be taken upon Petitioner's naval record.)

[REDACTED]

Assistant General Counsel (M&RA)