



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

Docket No. 6514-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED] USMC
XXX XX [REDACTED]

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 P1900.16C (Ch. 2), Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 21 March 1984
(d) Manual for Courts-Martial, United States, 1984
(e) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149, signed 16 June 2025
(2) DD Form 214
(3) [REDACTED] CO Memo 1910 LSST-D/1, subj: Separation Proceedings in the case of [Petitioner], 17 August 1989
(4) Petitioner's Memo 1910 [REDACTED] First Endorsement on Enclosure (3), subj: Separation Proceedings in the case of [Petitioner], 18 August 1989
(5) Petitioner's Memo 5800 LSST-D/13, subj: Statement in Rebuttal to the Separation Proceedings in the case of [Petitioner], undated
(6) [REDACTED] Marines CO Memo 1910 LSST-D/1, Second Endorsement on Enclosure (3), subj: Separation Proceedings in the case of [Petitioner], 18 August 1989
(7) [REDACTED] Marines Regiment CO Memo 1910 LSST-D/1, Third Endorsement on Enclosure (3), subj: Separation Proceedings in the case of [Petitioner], 18 August 1989
(8) 1st Marine Division SJA Memo 1910 17, subj: Separation Proceedings of [Petitioner], 1 September 1989
(9) [REDACTED] Marine Division CG Memo 1910 17, Fourth Endorsement on Enclosure (3), subj: Separation Proceedings of [Petitioner], 5 September 1989
(10) Naval Discharge Review Board Decisional Document, Docket No. [REDACTED]
(11) NDRB President Findings/Conclusion/Reason, undated
(12) ASN (M&RA) Decision, NDRB Docket No. [REDACTED], 20 September 1991

1. Pursuant to the provisions of reference (a), the Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Corrections of Naval Records, hereinafter referred to as the Board, requesting that his discharge characterization be upgraded to honorable.

2. A three-member panel of the Board convened in executive session to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures on 9 February

2026, and determined that the corrective action recommended in paragraph 6 below should be taken upon 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).

3. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record and/or the material provided with his application:

a. Petitioner enlisted in the Marine Corps and commenced a period of active duty service on 4 December 1985. See enclosure (2).

b. Petitioner appeared naked in photo layouts published in the June 1989 issue of [REDACTED] magazine and the September 1989 issue [REDACTED].¹ See enclosure (3).

c. By memorandum dated 17 August 1989, Petitioner was notified via the administrative board procedures that he was being recommended for administrative separation from the Marine Corps for misconduct due to commission of a serious offense. Specifically, he was notified that he was being processed for administrative separation for indecent exposure in violation of Article 134, Uniform Code of Military Justice (UCMJ), based upon his participation in lewd and lascivious acts as evidenced by the photo layouts referenced in paragraph 3b above. See enclosure (3).

d. On 18 August 1989, Petitioner acknowledged the notice referenced in paragraph 3c above and waived his right to a hearing before an administrative discharge board after consulting with counsel. He did, however, provide a written statement for consideration by the separation authority requesting that he be granted a general (under honorable conditions) discharge. In relevant part, that statement was as follows:

2. I originally joined the Marine Corps because of the physical challenge involved and the opportunity to serve my country. I believe that my service to the Corps has been honorable as shown by my proficiency and conduct marks and the rest of my SRB.

3. An other than honorable discharge would have a severe impact on my family and our future. I have a wife who is six months pregnant and who needs me for financial support. The adverse affects of an other than honorable discharge would hinder my ability to help my family in the future and unfairly punish them.

4. I have always gotten along well with the other Marines in my company and my superiors. Although I understand the reasons why my unit wants me separated, I do not feel that my service to the Marine Corps should be characterized as other than honorable. My record supports the fact that I have provided outstanding service to the Marine Corps and I would respectfully request that I be granted a general discharge (under honorable conditions).

¹ The Board did not have access to these photographs, but the Naval Discharge Review Board (NDRB) had access to them when it reviewed Petitioner's discharge in April 1991 and described them as containing images of "unbridled sex" intended to feature "an apparently sexually uninhibited female engaging in 'normal' intimate, adult, heterosexual activities." See enclosure (10).

See enclosures (4) and (5).

e. By memorandum dated 18 August 1989, Petitioner's battalion commander recommended that Petitioner be discharged from the Marine Corps under other than honorable (OTH) conditions for misconduct due to commission of a serious offense despite several favorable recommendations from his supervisory chain.² See enclosure (6).

f. By memorandum dated 22 August 1989, Petitioner's regimental commander "strongly concur[red]" with the recommendation of Petitioner's battalion commander that Petitioner be discharged under OTH conditions. See enclosure (7).

g. By memorandum dated 1 September 1989, the separation authority's Staff Judge Advocate opined that Petitioner's administrative separation proceedings were sufficient in law and fact, and concurred with the recommendations of the chain of command that Petitioner be discharged under OTH conditions. See enclosure (8).

h. By memorandum dated 5 September 1989, the separation authority directed that Petitioner be discharged from the Marine Corps under OTH conditions for misconduct due to commission of a serious offense. See enclosure (9).

i. On 2 October 1989, Petitioner was discharged from the Marine Corps under OTH conditions for misconduct due to commission of a serious offense. See enclosure (2).

4. Procedural Background.

a. Petitioner requested a discharge upgrade from the NDRB in September 1990, asserting that neither his service record nor his misconduct warranted an OTH characterization. See enclosure (10).

b. Petitioner personally appeared before the NDRB on 9 April 1991 and explained that he modeled for magazines on occasions and would receive assignments from his agent. He claimed that he had no advance knowledge that this photoshoot would require him to appear naked and that the scenes depicted were "private" and displayed "normal heterosexual activity." Finally, he asserted that he was very careful to ensure that the photographs included no identifying data which linked his status to the Marine Corps. Petitioner volunteered to provide the photographs to the NDRB upon request. By a vote of 3-2, the NDRB determined that Petitioner's discharge characterization should be upgraded to "General (under honorable conditions)" and his narrative reason for separation changed to "Secretarial Plenary Authority" upon the basis of equity (vice impropriety). Specifically, the NDRB commented that the photographs displayed normal,

² Petitioner's former platoon sergeant rated Petitioner's performance overall as "excellent," and indicated that he would want to have Petitioner continue serving with him. His then-current platoon sergeant described Petitioner's similarly, stating that Petitioner "never seemed to have any problems and seemed to be able to do any job given to him." Petitioner's platoon guide rated Petitioner overall as "outstanding" and opined that Petitioner "simply made a mistake, nothing more, nothing less" and that he would particularly desire to serve with Petitioner at any time.

consensual sexual activity and broke no laws, and questioned whether they were actually "indecent" within the context that they were produced.³ See enclosure (10).

c. The NDRB President subsequently "strongly" disagreed with the majority decision of the NDRB and concurred with the minority. Specifically, he stated that the photographs, which he described as "hardcore pornography," were taken explicitly for publication with the Petitioner's prior knowledge and consent, for which he received a fee of \$1,500, and that the accompanying written description of one of the photo layouts described Petitioner as a "military man." He also disagreed with the majority's analysis questioning the status of the photographs as "indecent," noting that Petitioner could also have been charged with adultery and indecent acts with another in violation of Article 134, UCMJ, and/or sodomy in violation of Article 125, UCMJ, based upon the photographic evidence. Accordingly, he recommended that Petitioner's discharge remain unchanged. See enclosure (11).

d. On 20 September 1991, the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) approved the minority decision of the NDRB, finding that Petitioner's conduct was clearly service discrediting and constituted both indecent acts and indecent exposure warranting both the reason for and characterization of the discharge he received. See enclosure (12).

e. Petitioner applied to the Board in June 2025 requesting the corrective action described in paragraph 1 above.⁴ Specifically, he asserted that the requested corrective action is warranted because "[t]here were no charges, no court marshal [sic], no office hours and no reduction in rank" and that "all performance evaluations were excellent! [sic]." He provided no other information with his request. See enclosure (1).

5. Conclusions.⁵

a. Petitioner exhausted all administrative remedies available within the Department of the Navy before seeking corrective action from the Board.

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 consider Petitioner's application on its merits.

c. Petitioner's personal appearance was not necessary for the Board to understand the substance of Petitioner's request. Accordingly, his request for such an appearance was denied.

d. The Board found no error in Petitioner's discharge under OTH conditions for misconduct due to commission of a serious offense when it was administered. In accordance with paragraph 6210.6 of reference (c), a Marine could be separated for misconduct due to commission of a serious military offense when the specific circumstances of the offense warranted separation and

³ The NDRB's finding of no impropriety in Petitioner's discharge was inconsistent with its assessment that the photographs were not indecent, since their failure to establish the elements of indecent exposure in violation of Article 134, UCMJ, would render improper Petitioner's discharge for misconduct due to commission of a serious offense.

⁴ Petitioner's signature on his DD Form 149 is dated 16 June 2025.

⁵ The Board's conclusions were unanimous.

a punitive discharge would be authorized for the same or a closely related offense under the UCMJ. In accordance with reference (d), the elements of indecent exposure in violation of Article 134, UCMJ, were that the accused exposed a certain part of the his body to public view in an indecent manner;⁶ that the exposure was willful and wrongful; and that, under the circumstances, the accused's conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces. Petitioner knowingly appeared naked and engaged in sexual activity in magazines intended to excite lust and deprave morals with respect to sexual relations, knowing the possibility that he would be recognized by fellow Marines. Further, as noted by the NDRB President, the conduct depicted in the photographs could also have been charged as adultery or indecent acts with another in violation of Article 134, UCMJ, or sodomy in violation of Article 125, UCMJ, so his conduct was clearly wrongful. Finally, Petitioner was identified in the caption to these photographs as a "military man," so his actions in this regard were service discrediting. As such, the Board, like the former NDRB President, harbored no doubt that Petitioner's conduct constituted indecent exposure in violation of Article 134, UCMJ. As reference (d) provided that indecent exposure in violation of Article 134, UCMJ, could be punished with a bad-conduct (*i.e.*, punitive) discharge, the Board found no error in the fact that Petitioner was discharged for misconduct due to commission of serious offense pursuant to reference (c). Finally, paragraph 6210.1 of reference (c) provided that the characterization of service normally assigned to a discharge based upon misconduct shall be OTH, so the Board found no error in the assignment of this characterization to Petitioner's discharge.

e. In addition to considering the circumstances of Petitioner's discharge at the time 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, the isolated nature of Petitioner's misconduct within an otherwise meritorious Marine Corps career; the favorable comments and recommendations made by Petitioner's supervisory chain even after he committed his act of misconduct; Petitioner's claim, which the NDRB found to be credible, that he accepted this modeling assignment without knowledge that it would involve nudity; the non-violent nature of Petitioner's misconduct; that Petitioner's command apparently did not find Petitioner's misconduct severe enough to warrant any punitive action; the unlikelihood that Petitioner's misconduct contributed significantly to any diminishment in good order and discipline within his unit at the time, as evidenced by the favorable comments and recommendations of his supervisory chain; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. Based upon these mitigating factors, the Board determined that modest equitable relief is warranted in the interests of justice. In particular, the Board simply found that the life-long stigma associated with an OTH discharge was overly harsh considering the relatively minor misconduct for which Petitioner was discharged. While the Board certainly did not condone Petitioner's conduct and believed that his discharge from the Marine Corps was appropriate, it did not believe that such off-duty and relatively harmless misconduct warranted such harsh and life-long consequences. Accordingly, the Board determined that Petitioner's discharge characterization should be equitably ungraded to "General

⁶ "Indecent" was defined as signified "that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations."

(under honorable conditions)" and that his narrative reason for separation should be changed to "Secretarial Plenary Authority" to mitigate the stigma associated with his mostly honorable service.

f. While finding the mitigating factors to sufficiently outweigh the severity of Petitioner's misconduct to justify the modest equitable relief discussed in paragraph 5e above, the Board did not find those mitigating factors to so significantly outweigh the severity of Petitioner's misconduct to justify the truly extraordinary relief that he requested. In this regard, the Board noted that Petitioner's misconduct was willful, and he knowingly engaged in this photo shoot knowing that he was putting his career as a Marine at risk. The Board also noted that Petitioner failed to provide any description or evidence of his post-service activities or contributions to society over the more than 35 years since his discharge upon which equitable relief might otherwise be based. Finally, the Board notes that the vast majority of Marines complete their enlistments without engaging in misconduct warranting involuntary separation, much less misconduct warranting discharge under OTH conditions, and found that it would be unjust to equate the quality of their service to the quality of Petitioner's decidedly less than fully honorable service.

6. Recommendation. Based upon its conclusions as discussed in paragraph 5 above, the Board recommends that the following corrective action be taken upon Petitioner's naval record in the interests of justice:

a. That Petitioner be issued a new DD Form 214 reflecting that his service ending on 2 October 1989 was characterized as "General (under honorable conditions)"; that his narrative reason for separation was "Secretary of the Navy Plenary Authority"; that his separation authority was "MARCORSEPMAN par. 6214"; and that his separation code was "JFF1." All other entries reflected on Petitioner's current DD Form 214, to include his reenlistment code, are to remain unchanged.

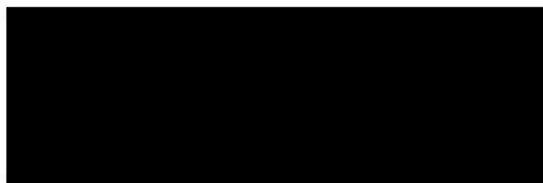
b. That a copy of this record of proceedings be filed in Petitioner's naval record.

c. That no further 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.

8. The foregoing action of the Board is submitted for your review and action in accordance with Sections 6e(1)(c) and 6e(2)(a) of Enclosure (1) to reference (e).

4/23/2026



Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED] USMC
XXX XX [REDACTED]

ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)
DECISION:

— Board Recommendation Approved (Partial Relief – I concur with the Board's conclusions and therefore direct the corrective action recommended in paragraph 6 above.)

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— Board Recommendation Disapproved (Deny Relief – I do not concur with the Board's conclusions. Specifically, I found the severity of Petitioner's misconduct to outweigh all of the mitigating factors combined and equitable relief to therefore be unwarranted in the interests of justice. In this regard, I note that Petitioner offered no evidence of his post-service activities and/or contributions to society upon which equitable relief might be granted. Accordingly, I direct that no corrective action be taken upon Petitioner's naval record.)

— Petitioner's Request Approved (Full Relief – I generally concur with the Board's conclusion that equitable relief is warranted given the totality of the circumstances, but do not believe that the corrective action recommended by the Board goes far enough to serve the interests of justice. Specifically, I found that the mitigating factors did so significantly outweigh the relatively minor severity of Petitioner's misconduct as to justify the equitable relief that he requested. Accordingly, I direct the corrective action recommended by the Board in paragraph 6 above, except that Petitioner's service shall be characterized as "Honorable" and his reenlistment code changed to "RE-1." Petitioner shall also be issued an Honorable Discharge Certificate.)

