



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

[REDACTED]
Docket No. 6896-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(c) USD Memo of 25 Aug 17 (Kurta Memo)
(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures
(2) Advisory Opinion (AO) of 20 Nov 25
(3) Rebuttal to AO, undated

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 that his discharge be upgraded and that his "military arrest"¹ be expunged from his record.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 13 March 2026 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). Additionally, the Board considered enclosure (2), the advisory opinion (AO) furnished by qualified mental health provider, and enclosure (3), Petitioner's response to the AO.

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 regulations within the Department of the Navy. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

¹ Petitioner's record did not contain any evidence of an arrest.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 21 January 2004. As part of his enlistment processing, he received a waiver for weight standards. After serving three years without incident, Petitioner was awarded the Good Conduct Medal in January 2007. After a period of continuous Honorable service, Petitioner immediately reenlisted and commenced a second period of active duty of 30 September 2008.

c. On 21 October 2009, Petitioner's urine sample was collected which subsequently tested positive for cocaine metabolites.

d. On 11 December 2009, Petitioner received nonjudicial punishment (NJP) for violation of Article 112a, Uniform Code of Military Justice (UCMJ). Consistent with a pre-trial agreement which removed the charge and specification from a special court-martial, Petitioner was notified of processing for administrative separation by reason of misconduct due to drug abuse and waived his right to a hearing before and administrative separation board. A recommendation for his discharge under Other Than Honorable (OTH) conditions was forwarded to the separation authority.

e. Petitioner's administrative separation was approved by [REDACTED] and he was so discharged accordingly on 7 April 2010.

f. Petitioner contends that his discharge should be upgraded on the basis of clemency to recognize his rehabilitation, personal growth, and honorable conduct since his separation. He state that he has taken responsibility for his past actions and has worked to become a productive member of society. He feels that his discharge no longer reflects who he is today and that it would afford him redemption and an opportunity for a second chance to receive an upgraded characterization. In support of his contentions of clemency, in addition to his personal statement, he submitted evidence of his service records and awards, transcripts and diplomas as evidence of post-service accomplishments, and four character letters.

g. Because Petitioner contends, in part, that a mental health condition affected the circumstances of his discharge, the Board also requested the AO. It stated in pertinent part:

There is no evidence that he was diagnosed with PTSD or another mental health condition in military service, and he has provided no post-service medical evidence of a mental health diagnosis. The Petitioner has provided a personal statement and supporting statements that he does experience symptoms of PTSD related to his combat deployments. It is possible that substance use in service and disobedience could be considered behavioral indicators of avoidance and irritability associated with PTSD. However, in the absence of in-service or post-service supporting medical evidence, it is difficult to attribute his limited misconduct to mental health concerns, particularly given his other, stellar service resulting in commendations and awards. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health concern that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

h. In response to the AO, Petitioner submitted additional evidence which included civilian mental health treatment records from August of 2025, listing a diagnosis of Generalized Anxiety Disorder. During the treatment session, the Petitioner described 2009 combat exposure while on a night mission. While Petitioner discussed his combat trauma with a civilian mental health provider, he did not receive a diagnosis of PTSD. After consideration of the rebuttal evidence, the original AO remained unchanged.

CONCLUSION:

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

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his drug abuse. The Board noted Petitioner did not dispute his positive urinalysis. Therefore, the Board determined the presumption of regularity applies to Petitioner's administrative separation and no error exists with his record.

The Board also applied liberal consideration to Petitioner's claim that he suffered from PTSD, and to the effect that this condition may have had upon the conduct for which Petitioner was discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of PTSD that may be attributed to military service. This conclusion is supported by the AO and the fact you were never diagnosed with PTSD. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO.

In addition to applying liberal consideration to Petitioner's claimed mental health condition and its potential effect upon your conduct in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, Petitioner's desire for an upgrade to his characterization of service, his contentions, the totality of his service, his need for veterans' benefits, the non-violent nature of his misconduct, his relative youth and immaturity at the time of your misconduct, the negative effect his discharge has had on his life, his rehabilitation efforts, his post-service record of accomplishments, his candor and remorse, his mental health issues, the evidence he provided in support of his application, the character references he provided for review, and the passage of time since his discharge.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

The Board found that the mitigating factors were sufficient to justify equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct did not outweighed all of the mitigating factors combined. In particular, the Board favorably considered Petitioner's evidence of post-discharge rehabilitation and character in addition to his in-service accomplishments, specifically observing: that Petitioner served for three years without incident and earned the Good Conduct Medal, that he served honorably in multiple combat deployments and earned the Air Medal (1st, 2nd, and 3rd award) for service as an aerial observer/gunner, and his continued personal development in the field of aviation maintenance in the time since his discharge. As a result, the Board found that the totality of favorable matters in support of clemency outweighed the single instance of drug abuse misconduct which resulted in Petitioner's other than honorable discharge. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief with respect to upgrading his characterization of service to General (Under Honorable Conditions.)

Notwithstanding the recommended corrective relief below and despite the application of mitigating factors in Petitioner's case, the Board found that the mitigating factors were not nearly sufficient to justify any further equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct far outweighed all of the mitigating factors combined to support any additional relief. In particular, 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. The Board found that Petitioner's conduct showed a complete disregard for military authority and regulations. Additionally, the Board determined his conduct was sufficiently serious to negatively affect the good order and discipline of your command. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's misconduct led them to conclude that his service was not Honorable.

Finally, as noted above, Petitioner's record contains no evidence of an arrest. Therefore, the Board took no action on this aspect of his application.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending on 7 April 2010, he was discharge with a "General (Under Honorable Conditions)" characterization of service. In issuing this corrected DD Form 214, that the block 18 remarks regarding his period of continuous honorable service, which are currently documented via DD Form 215, be incorporated into his reissued DD Form 214. That all other information currently listed on Petitioner's DD Form 214 remains the same.

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

A copy of this report of proceedings be filed in Petitioner's naval record.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

[REDACTED] USMC

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-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 Regulation, 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.

4/6/2026

