



Docket No. 7810-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF
XXX XX [REDACTED] USMC (RET)

Ref: (a) 10 U.S.C. § 1552
(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)
(c) PDUSD Memo of 24 Feb 16 (Carson Memo)
(d) USECDEF Memo of 25 Aug 2017 (Kurta Memo)

Encl: (1) DD Form 149 w/enclosures
(2) [Petitioner] Retirement Preapplication Checklist, 16 Nov 15
(3) Record of Trial by Summary Court-Martial
(4) DD Form 214
(5) BCNR ltr CES Docket No: 2342-20 Ref: Signature Date, 6 Oct 20
(6) DD Form 215, 18 Jun 18

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 his naval record be corrected by restoring his rank to E-8, First Sergeant (1stSgt), with backpay, updating his Official Military Personnel File (OMPF) to show E-8 as his highest paygrade satisfactorily served, remove from his OMPF his fitness report covering the period of 31 July 2015 to 15 April 2016, and issue him a new DD Form 214 indicating his narrative reason for separation as either "Secretarial Authority," or "Sufficient Service for Retirement."

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 April 2026, and pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies, to include references (b) through (d).

3. Before applying to this Board, Petitioner did not exhaust all administrative remedies available under existing law and regulations within the Department of the Navy.¹ The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds the following:

¹ Petitioner has not petitioned the Performance Evaluation Review Board (PERB) for relief related to his fitness report.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC (RET)

a. On 20 November 2015, Petitioner, then a Gunnery Sergeant (GySgt), (E-8), was transferred to the Fleet Marine Corps Reserve with an approved effective date of 31 July 2016. See enclosure (2).

b. On 20 April 2016, Petitioner was convicted at Summary Court-Martial (SCM) of violating Articles 89 and 92 of the Uniform Code of Military Justice (UCMJ).² Petitioner was sentenced to reduction in rank to E-7. See enclosure (3).

c. On 31 August 2016, Petitioner was retired, at the rank of E-7, with an Honorable (HON) characterization of service. His narrative reason for separation was "Unacceptable Conduct." See enclosure (4).

d. Petitioner previously petitioned the Board for relief in September 2016, requesting a retirement rank upgrade to E-8 and correction of his narrative reason for separation on his DD Form 214 from "Unacceptable Conduct" to "Secretarial Authority." On 15 April 2018, the Board granted partial relief, by correcting Petitioner's narrative reason for separation to "Secretarial Authority." A DD Form 215 was issued to implement this correction. The Board denied Petitioner's request for rank upgrade to E-8. See enclosures (5) and (6).

e. Subsequently, Petitioner petitioned the Board for reconsideration, resulting in denial of relief on 6 October 2020.³ See enclosure (5).

f. Petitioner contends, after multiple deployments to [REDACTED] and [REDACTED], he suffered from Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and several chronic physical injuries. He submitted a retirement request after serving for 22 years, and after his retirement was approved, he was investigated by his command for disloyalty, alleged claims of disrespect, perceived absences, administrative deficiencies, and an allegation of fraternization with a non-commissioned officer (NCO). He further contends he was then unfairly subjected to a SCM for minor infractions of the UCMJ that are normally handled through administrative action. The SCM reduced him in rank to E-7, and he was retired. Months afterwards, he received an incorrect adverse fitness report that erroneously claimed he had refused to complete a combat fitness test from which he was excused. In support of his application, he provided a legal brief with enclosures. See enclosure (1).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of material error and injustice in Petitioner's record warranting partial relief. Specifically, the Board found its previous correction of Petitioner's record, by directing issuance of a DD Form

² Alleged misconduct included disrespect, dereliction of duty, and orders violations. Petitioner alleged the dereliction charge resulted from command bias against him due to medical appointments.

³ In denying relief, the Board noted Petitioner entered into an agreement to plead guilty at SCM to violating Articles 89 and 92 of the UCMJ in exchange for disposal of the charges at SCM rather than Special Court-Martial (SPCM). In that agreement, Petitioner acknowledged his punishment could include reduction in pay grade. The Board determined Petitioner's loss of rank was a reasonable punishment for the misconduct to which he pled guilty and that the last paygrade at which he served satisfactorily was the grade of GySgt (E-7).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC (RET)

215, insufficient in that, although this action technically corrected Petitioner's record, because the DD Form 215 did not replace the DD Form 214, but only added to it, the language the Board intended to correct (the narrative reason for separation of "Unacceptable Conduct,") remained visible in Petitioner's record, potentially subjecting him to negative bias. The Board thus concluded Petitioner should be issued a new DD Form 214, indicating his narrative reason for separation as "Secretarial Authority," with corresponding changes to the separation authority and separation code." Additionally, the previously issued DD Form 214 and DD Form 215 should be removed from Petitioner's record.

The Board, however, was unwilling to grant additional relief. While the Board carefully considered the evidence, including the evidence submitted in mitigation⁴, even in light of the references, and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warranted granting the relief requested. Rather, the Board reiterated its previous finding that Petitioner voluntarily pled guilty at SCM, and prior to doing so, was aware his sentence could include reduction in rank. Furthermore, loss of rank was a reasonable punishment for the charges to which he pled guilty, and consequently, GySgt was the last rank at which he satisfactorily served. As such, the Board was not willing to restore his rank. Regarding Petitioner's request that his fitness report be removed from his OMPF, the Board found Petitioner has not yet exhausted his administrative remedies in that he has not petitioned the PERB for modification or removal of his fitness report. As such, apart from the partial relief recommended herein, the Board found no further relief warranted.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

That Petitioner be issued a new DD Form 214 indicating his narrative reason for separation as "Secretarial Authority," his separation authority as, "MARCORSEPMAN par 6214," and his separation code as "JFF1."

That the previously issued DD Form 214 and DD Form 215 be removed from Petitioner's record.

That any other material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and no such entries or material be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

That no further corrections be made to Petitioner's 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 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

⁴ Petitioner's application included 11 letters of support not previously considered by the Board.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC (RET)

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.

5/11/2026

