



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

Docket No. 8762-25
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]
XXX XX [REDACTED] USMCR

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 with attachments
(2) Naval record (excerpts)
(3) Advisory Opinion of 22 Jan 2026

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 an upgrade of his characterization of service to "Honorable."

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 16 March 2026 and, pursuant to its regulations, determined that 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 his naval service records, and applicable statutes, regulations, and policies including references (b) through (d). In addition, the Board considered enclosure (3), an advisory opinion (AO) from a qualified mental health professional. Although Petitioner was provided an opportunity to respond to the AO, he chose not to do so.

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 did not file his application in a timely manner, the statute of limitation was waived in the interests of justice.

b. Petitioner enlisted in the Marine Corps Reserve and began his initial active duty training pipeline on 13 October 2005. As part of his enlistment processing, Petitioner admitted preservice use of marijuana and received a waiver. On 22 March 2006, Petitioner was honorably discharged after completion of his training and assigned to his Reserve unit.

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c. On 23 March 2007, Petitioner was counseled concerning his failure to reply to a "Quarter Frost Call." Petitioner was advised that failure to take corrective action could result in administrative separation.

d. On 10 September 2007, Petitioner began a second period of active duty in support of [REDACTED]. After completing his obligated active service, on 6 October 2008, Petitioner was honorably released from active duty and returned to inactive duty status.

e. On 22 July 2008, Petitioner was informed through certified mail that he was declared an unsatisfactory participant in the Marine Corps Reserves based on his failure to attend, without excuse, a total of 11 mandatory drills. Petitioner was advised that his unsatisfactory participation would be considered during a future Administrative Discharge Board (ADB).

f. On 13 January 2009, Petitioner was mailed notification of the initiation of administrative separation proceedings by reason of unsatisfactory participation in the Marine Corps Reserve. Based on Petitioner's failure to return his acknowledgement of rights, he was determined to have waived his procedural rights.

g. On 6 May 2010, Petitioner's commanding officer declared his intent to initiate Competency Review Board (CRB) proceedings and reduced him to private first class (PFC) as a result of him missing 54 drills. That same day, the CRB administratively reduced Petitioner to PFC.

h. On 4 June 2010, Petitioner was again notified through certified that he was an unsatisfactory participant in the Marine Corps Reserves as he failed to attend, without excuse, a total of 51 mandatory drills. Once again, Petitioner was advised that this unsatisfactory participation would be considered at an ADB.

i. On 3 August 2010, the Petitioner's commanding officer recommended Petitioner be discharged with an Other Than Honorable (OTH) and General (Under Honorable Conditions) (GEN) discharge characterization of service by reason of unsatisfactory participation in the ready reserves.¹ After Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. On the same date, the separation authority approved and ordered an Other than Honorable (OTH) discharge characterization of Service by reason of unsatisfactory participation in the Marine Corps Ready Reserves. Ultimately, Petitioner was so discharged.

j. Petitioner argues that the characterization of his discharge is inaccurate, should be corrected to properly reflect his Honorable service, and changed to remove the injustice of being denied benefits. Petitioner further contends that, after leaving the military, he began a career in construction safety. While pursuing additional certifications, he discovered an issue with his service record. Petitioner states that he wants his wife and children to see that his past should not define the person he has become and that people are capable of change.

¹ The dual recommendation of an OTH and GEN characterization of service appears to be an administrative error. The rest of Petitioner's chain of command recommended he receive an OTH characterization of service.

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k. As part of the Board's review, a qualified mental health professional reviewed Petitioner's request and provided the Board with an advisory opinion (AO). The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with another mental health condition in military service. Temporally remote to his military service, a civilian mental health provider has assigned a diagnosis of PTSD that has been attributed to military combat. Unfortunately, it is difficult to attribute his failure to drill to avoidance from undiagnosed PTSD. Reserve service is stressful and complicated and there are many reasons that an individual may not attend drill. There is no evidence that he communicated with his command regarding mental health concerns or other impediments to drill participation. 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.

The AO concluded, "Based on a review of all available evidence, it is my considered clinical opinion that there is post-service evidence from a civilian mental health provider of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence that his failure to participate in Reserve drills may be attributed to PTSD."

CONCLUSION:

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

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his failure to attend required drills. The Board noted he did not deny committing the misconduct that formed the basis of his administrative separation and OTH discharge. Further, the Board considered that Petitioner did not provide any evidence, other than his statement, to substantiate his contention that his assigned characterization of service is inaccurate. Therefore, the Board determined the presumption of regularity applies to Petitioner's administrative separation and no error exists with his record.

However, because Petitioner raised the issue of mental health, the Board also applied liberal consideration to his claim that he suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your temporally remote post-service medical evidence you provided in support of your claim. However, 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. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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In addition to applying liberal consideration to Petitioner's claim that he suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Hagel and Kurta Memos, the Board also considered the totality of the circumstances to determine whether equitable relief was 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 to include service highlights, his need for veterans' benefits, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, the negative effect his discharge has had on your life, his rehabilitation efforts and post-service record of accomplishments, his mental health issues, the evidence he provided in support of his application, the character reference he provided for review, and the passage of time since his discharge.

The Board found that the mitigating factors were sufficient to justify equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct was outweighed by all of the mitigating factors combined. In particular, the Board noted Petitioner's mobilization and active service in support of OIF and his post-service achievements in the construction safety field. Therefore, taking into consideration all the mitigation factors in Petitioner case, the Board found his misconduct was outweighed the mitigation evidence in the record. Ultimately, the Board concluded an upgrade of Petitioner's discharge characterization of service to GEN and a change to Petitioner's reason for separation, separation authority, and separation code to reflect a Secretarial Authority discharge is warranted in the interests of justice.

Notwithstanding the recommended corrective action below, the Board was unwilling to grant Petitioner an Honorable characterization of service or change his reentry code. After considering the same mitigation factors, the Board concluded they were not nearly sufficient to justify any further equitable relief. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's cumulative misconduct led them to conclude that his service was not Honorable. Further, the Board determined that Petitioner was already receiving significant clemency from the Board and it was sufficient to address any injustice in his record. Finally, the Board believed that it would be unjust to characterize Petitioner's less than honorable service in the same manner as the service of the thousands of service members who, unlike Petitioner, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Additionally absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. While the Board considered Petitioner's possible need for veterans' benefits, they determined the severity of his misconduct outweighed any mitigation resulting from that factor.

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

RECOMMENDATION:

That Petitioner be issued a new DD Form 794 MC reflecting that, for the period ending in October 2010, he was discharged with a "General (Under Honorable Conditions)"

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characterization of service, narrative reason for separation of "Secretarial Authority," SPD code of "JFF1," and a separation authority of "MARCORPSEPMAN 6214."

No further changes be made to Petitioner's record.

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

4/9/2026

