



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No: 6219-20

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █  
█ USN, XXX-XX-█

Ref: (a) 10 U.S.C. § 1552  
(b) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018

Encl: (1) DD Form 149 w/attachments  
(2) DD Form 214  
(3) NAVPERS 1070/607, Court Memorandum, 29 Aug 92  
(4) NAVPERS 1070/607, Court Memorandum, 19 Feb 93  
(5) USS █ CO Memo Ser 00A0067, subj: Notice of an Administrative Board Procedure Proposed Action, 24 Feb 93  
(6) Petitioner Memo, subj: Statement of Awareness and Request for, or Waiver of, Privileges, 26 Feb 93  
(7) Naval Shipyard █ Counseling and Assistance Center Director Memo, subj: Evaluation of [Petitioner], 6 Apr 93  
(8) ADB Record of Proceedings, 21 Apr 93  
(9) SF 600, Health Record: Chronological Record of Medical Care, 22 Apr 93  
(10) █ CO Memo Ser 00/0146, subj: [Petitioner], Recommendation for Separation due to Misconduct due to Commission of a Serious Offense, 7 May 93  
(11) BUPERS Memo Ser 832, subj: [Petitioner], undated  
(12) NAVPERS 1070/607, Court Memorandum, 16 Jul 93  
(13) █ CO Memo Ser 00/0259, subj: Notice of an Administrative Board Procedure Proposed Action, 26 Jul 93  
(14) Petitioner Memo, subj: Statement of Awareness and Request for, or Waiver of, Privileges, 27 Jul 93  
(15) ADB Record of Proceedings, 26 Aug 93  
(16) █ CO Memo Ser 00/0703, subj: [Petitioner], Recommendation for Separation by Reason of Misconduct due to Pattern of Misconduct, 31 Aug 93  
(17) BUPERS Msg, dtg 221840Z Sep 93

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 characterization of service be upgraded to general (under honorable conditions).

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]

[REDACTED] USN XXX-XX-[REDACTED]

2. The Board reviewed Petitioner's allegations of error or injustice on 17 March 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include reference (b).

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error or 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.

b. Although enclosure (1) was not filed in a timely manner, it is in the interests of justice to review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 14 January 1992. See enclosure (2).

d. On 29 August 1992, Petitioner received nonjudicial punishment (NJP) for a unauthorized absence (UA) totaling eight days in violation of Article 86, Uniform Code of Military Justice (UCMJ), and missing movement in violation of Article 87, UCMJ. See enclosure (3).

e. On 19 February 1993, Petitioner received a second NJP for an UA of three days in violation of Article 86, UCMJ; missing movement in violation of Article 87, UCMJ; willful disobedience of a superior commissioned officer in violation of Article 90, UCMJ; and drunk and disorderly conduct and breaking restriction, both in violation of Article 134, UCMJ. See enclosure (4).

f. By memorandum dated 24 February 1993, Petitioner was notified that he was being considered for an administrative discharge by reason of misconduct due a commission of a serious offense. See enclosure (5).

g. On 26 February 1993, Petitioner elected to exercise his right to an administrative discharge board (ADB). See enclosure (6).

h. On 30 March 1993, Petitioner was screened at the Counseling and Assistance Center (CAAC) due to his alcohol-related UA, and returned to his command following satisfactory participation. By memorandum dated 6 April 1993, the CAAC found Petitioner to be psychologically dependent on alcohol and recommended that he be referred for a Level III (inpatient) treatment program. The CAAC also found that Petitioner meets the criteria for further service and is amenable to treatment, but that his potential for further alcohol abuse absent the recommended treatment was high. See enclosure (7).

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]

[REDACTED] USN XXX-XX-[REDACTED]

i. On 21 April 1993, the ADB unanimously found that Petitioner committed misconduct due to commission of a serious offense, but that he should be retained in the naval service. See enclosure (8).

j. On 22 April 1993, Petitioner was medically diagnosed as being psychologically dependent upon alcohol and recommended for Level II/III treatment. See enclosure (9).

k. By memorandum dated 7 May 1993, Petitioner's commanding officer recommended, contrary to the recommendation of the ADB, that Petitioner be discharge under other than honorable (OTH) conditions by reason of misconduct due to the commission of a serious offense. He stated that Petitioner's issue was not one of alcoholism, but rather serious misbehavior. He also stated that Petitioner was a good worker when onboard the ship, but had no sense of responsibility when on liberty. As a result, he was lost to the command for nearly six weeks as a result of his two missing movement offenses. See enclosure (10).

l. Pursuant to the recommendation of Petitioner's commanding officer, the Chief of Naval Personnel recommended to the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) that Petitioner be discharged from the Navy by reason of misconduct due to commission of a serious offense with a general (under honorable conditions) characterization of service. There is no record, however, that the ASN (M&RA) ever acted upon this recommendation. See enclosure (11).

m. On 16 July 1993, Petitioner received his third NJP for an UA in violation of Article 86, UCMJ. See enclosure (12).

n. By memorandum dated 26 July 1993, Petitioner was again notified that he was being considered for an administrative discharge, this time by reason of misconduct due to a pattern of misconduct as evidenced by his three NJPs and previous ADB. See enclosure (13).

o. On 27 July 1993, Petitioner again elected to exercise his right to an ADB. See enclosure (14).

p. On 26 August 1993, the ADB unanimously substantiated the allegation that Petitioner committed misconduct due to a pattern of misconduct, and recommended that he be separated under OTH conditions. See enclosure (15).

q. By memorandum dated 31 August 1993, Petitioner's commanding officer recommended to the separation authority that he be separated from the Navy for misconduct due to a pattern of misconduct. See enclosure (16).

r. By message dated 22 September 1993, the separation authority directed that Petitioner be separated from the Navy under OTH conditions for misconduct due to a pattern of misconduct. See enclosure (17).

s. On 24 September 1993, Petitioner was discharged from the Navy under OTH conditions for a pattern of misconduct. See enclosure (2).

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]

[REDACTED] USN XXX-XX-[REDACTED]

t. Petitioner contends that all of his misconduct was the result of his untreated alcohol addiction. He asserts that his supervisors said he was a great Sailor onboard the ship, but always became intoxicated when he was off the ship. Petitioner became a truck driver after his separation from the Navy, and received inpatient detoxification treatment in 2004. See enclosure (1).

#### MAJORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Majority of the Board determined that Petitioner's characterization of service should be upgraded in the interests of justice.

The Majority considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (b). In this regard, the Majority considered, among other factors, Petitioner's contention that his misconduct resulted from his untreated alcohol addiction; that Petitioner appears to have been a good Sailor when onboard the ship and not tempted by alcohol; that Petitioner deployed onboard the [REDACTED]; that Petitioner appears to have rehabilitated himself by undergoing post-service inpatient detoxification treatment and through participation in Alcoholics Anonymous; Petitioner's post-service employment and educational accomplishments, which reflect that he has become a productive member of society despite his alcohol addiction and the stigma of his OTH discharge; Petitioner's relative youth and immaturity at the time of his misconduct; and the passage of time since Petitioner's discharge. Based upon this review, the Majority determined that Petitioner's characterization of service should be upgraded based upon the totality of the circumstances. In particular, the Majority noted that Petitioner was not afforded the opportunity to participate in inpatient treatment despite the recommendations of both the CAAC and a medical provider. The Majority believed that Petitioner would likely have been afforded the opportunity to participate in such treatment under similar circumstances today, and this opportunity may have made a difference for him. This factor, combined with Petitioner's impressive post-service record of accomplishment and ongoing efforts to rehabilitate himself from his alcohol addiction, convinced the Majority that relief was warranted in the interests of justice.

Despite the fact that it was not requested, the Majority considered whether Petitioner's characterization of service should be upgraded to fully honorable in the interests of justice. However, given the quantity and nature of Petitioner's misconduct, the Majority determined that the mitigating circumstances did not so significantly outweigh Petitioner's misconduct to warrant such relief under the totality of the circumstances.

#### MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a DD Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty) reflecting that he was discharged with a general (under honorable conditions) characterization of service.

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]  
[REDACTED] USN XXX-XX-[REDACTED]

That no further corrective action be taken.

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

MINORITY CONCLUSION:

After careful review and consideration of all of the evidence of record, the Minority of the Board found no error or injustice warranting relief.

The Minority also considered the totality of the circumstances to determine whether relief was warranted in the interests of justice in accordance with reference (b), and considered all of the potentially mitigating factors discussed in the Majority analysis above. While the Minority recognized that Petitioner's alcohol addiction contributed to his misconduct, it found that the frequency of Petitioner's misconduct outweighed all of the potentially mitigating factors. In particular, the Minority noted that Petitioner was provided numerous opportunities to correct his behavior, but failed to do so. Accordingly, the Minority determined that an upgrade to Petitioner's characterization of service was not warranted under the totality of the circumstances.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that no corrective action be taken on 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 titled matter.
5. The foregoing action of the Board is submitted for your review and action.

4/12/2021

[REDACTED]

Executive Director

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]  
[REDACTED] USN XXX-XX-[REDACTED]

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

MAJORITY Recommendation Approved (Full Relief – Upgrade to General (under honorable conditions))

~~MINORITY Recommendation Approved (Deny Relief)~~

~~Additional Relief Approved (Upgrade to Honorable) \_\_\_\_\_~~

4/28/2021

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]