



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

[REDACTED]
Docket No: 4186-21
Ref: Signature Date

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

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

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

Encl: (1) DD Form 149 w/enls

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with this Board requesting that his other than honorable (OTH) discharge be upgraded to General (under honorable conditions) or Honorable, that his narrative reason for separation be changed to "Secretarial Authority," and that his submarine Warfare Insignia be restored. Enclosure (1) applies.

2. The Board, consisting of [REDACTED] [REDACTED] [REDACTED] [REDACTED] reviewed Petitioner's allegations of error and injustice on 4 October 2021, and pursuant to its regulations, determined that the partial corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, applicable statutes, regulations, policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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.

b. Petitioner enlisted in the Navy and began a period of active duty on 16 June 1986.

c. On 20 June 1986, Petitioner was briefed on the Navy's policy regarding drug and alcohol abuse.

[REDACTED]

d. On 12 March 1991, Petitioner received nonjudicial punishment (NJP) for wrongful use of marijuana. He received a reduction in paygrade, a forfeiture of pay, and restriction for 60 days.

e. On 14 March 1991, Petitioner was notified of administrative discharge action by reason of misconduct due to drug abuse. After being afforded his procedural rights, Petitioner waived his right to have his case heard before an administrative discharge board, and elected to submit a statement on his behalf.

f. On 20 March 1991, a Drug and Alcohol Report stated "Member shows no potential for future Naval service based on Navy "Zero Tolerance" for drug abuse." Petitioner reported that he was at a party where marijuana was used, and he had no memory of actual usage.

g. On 22 March 1991, Petitioner submitted a written statement requesting to receive a general discharge. He stated that he understood the Navy's Policy of Zero Tolerance in regards to drugs, and argued that having his impeccable service nullified by 10 minutes of a 24-hour day was unjust. Petitioner also noted that his performance evaluations, last Navy wide examination, and all previous drug screening indicated that this was an isolated incident, he was relying on his training and time in the Navy to be beneficial in his search for civilian employment, and an other than honorable (OTH) discharge would not allow him to benefit from almost five years of flawless military service.

h. On 10 April 1991, Petitioner changed his mind, and requested to have his case heard before an administrative discharge board (ADB).

i. On 15 April 1991, medical personnel identified Petitioner not to be a drug abuser.

j. On 17 April 1991, a Judge Advocate General officer forwarded a letter to the separation authority for consideration in connection with Petitioner's administrative separation processing, recommending that if Petitioner were allowed to rescind his waiver of an ADB, that orders be issued for further processing. Petitioner's case was forwarded to the separation authority with the recommendation that he receive an OTH discharge.


k. On 20 May 1991, the separation authority directed that Petitioner be separated from the Navy with an OTH discharge due to drug abuse.

l. On 5 July 1991, Petitioner was discharged from the Navy with an OTH characterization of service.

m. With his application, Petitioner contends that his misconduct was a one-time "youthful indiscretion," the relative severity of his conduct is lesser than it is today, and he has demonstrated exceptional post-discharge conduct.

n. Petitioner's request was fully and carefully considered by the Board in light of the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

[REDACTED]



CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants partial favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) and determined that in accordance with the Wilkie memo, Petitioner warrants relief as a matter of clemency.

In this regard, the Board noted Petitioner's misconduct, and does not condone his actions. However, based upon Petitioner's overall record, relief in the form of his characterization of service should be changed to "General (under honorable conditions)." However, the Board voted not to change his narrative reason for separation to "Secretarial Authority" or to restore his Submarine Warfare Insignia.

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

RECOMMENDATION

Petitioner be issued a new DD Form 214, showing that on 5 July 1991 he was discharged with a General (under honorable conditions) discharge.

That no further action be granted.

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 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.

10/18/2021



Executive Director

