



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

█  
Docket No: 6851-21

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) 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 with attachments  
(2) Case Summary

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 her other than honorable (OTH) character of service be upgraded.

2. The Board, consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 17 November 2021 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, 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 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. Petitioner reenlisted in the Navy on 22 October 2001. The Board noted that prior to Petitioner's reenlistment into the Navy, she had a continuous period of honorable service from 16 January 1990 to 21 October 2001.

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d. On 8 January 2004, Petitioner received non-judicial punishment (NJP) for wrongful use of cocaine. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in her official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary (as is the case at present), will presume that they have properly discharged their official duties. The record shows that on 28 January 2004, the separation authority (SA) directed Petitioner's administrative discharge from the Navy with an other than honorable (OTH) characterization of service by reason of misconduct due to drug abuse. On 2 February 2004, Petitioner was so discharged.

e. At the time of his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) with a characterization of service of "Other Than Honorable," separation authority was "MILPERSMAN 1910-146," separation code was "HKK," reenlistment code was "RE-4," and narrative reason for separation was "Misconduct."

f. Petitioner provided the following contention for the Boards' consideration:

1) She attended an off-base party where apparently one of her drinks was laced with cocaine. It was found in her system when she was randomly tested two days later. She was under the care of a base psychiatrist at the time. Up until to this time, she had never used illegal drugs, and have never used since. This was a one-time involuntary circumstance; this one incident was involuntary. Petitioner further states that she was not afforded any counseling or asked if she needed help with drug rehabilitation.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that given the totality of her circumstances, Petitioner's request merits partial relief. Additionally, the Board reviewed Petitioner's application under the guidance provided in reference (b). Specifically, the Board considered whether her application was the type that was intended to be covered by this policy.

In this regard, the Board noted Petitioner's disciplinary infraction and does not condone her misconduct, which subsequently resulted in her OTH characterization of service. However, in light of reference (b), after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "general (under honorable conditions)." Additionally, Petitioner's narrative reason for separation should be changed to "Secretarial Authority," to reflect a less stigmatizing reason for separation.

#### RECOMMENDATION:

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

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That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 2 February 2004, Petitioner was discharged with a "General (under honorable conditions) character of service, narrative reason for separation was "Secretarial Authority," separation authority was MILPERSMAN 1910-164," and SPD code was "JFF."

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

That 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.

12/14/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]