



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

█
Docket No: 6991-21

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 his other than honorable (OTH) character of service be upgraded to general (under honorable conditions).
2. The Board, consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 1 December 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 enlisted in the Navy and began a period of active duty on 4 August 1988.
 - d. On 7 March 1991, Petitioner received non-judicial punishment (NJP) for disobeying a lawful order and dereliction in the performance of duty. On 10 February 1992, Petitioner received his second NJP for assault.

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e. On 12 February 1992, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. Petitioner was advised of, and exercised his procedural right, to consult with military counsel and to present his case to an administrative discharge board (ADB). On 13 April 1992, an ADB was convened and recommended administrative discharge from the Navy with an other than honorable (OTH) characterization of service.

f. Petitioner's commanding officer (CO) then forwarded his administrative separation package to the separation authority (SA) recommending that Petitioner be administratively discharged from the Navy with an other than honorable (OTH) characterization of service.

g. The SA approved the CO's recommendation and directed that Petitioner be administratively discharged from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense. On 12 June 1992, Petitioner was so discharged.

CONCLUSION:

Upon review and consideration of all the evidence of record, to include the statements submitted on Petitioner's behalf from others with whom he served, the Board concludes that given the totality of his circumstances, Petitioner's request merits relief. Additionally, the Board reviewed Petitioner's application under the guidance provided in reference (b). Specifically, the Board considered whether his 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 his misconduct, which subsequently resulted in his 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)."

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 12 June 1992, Petitioner was discharged with a "general (under honorable conditions) characterization of service.

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

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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.

12/23/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]