



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

█
Docket No: 7385-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
█, 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 naval record be corrected by upgrading the characterization of service from "other than honorable" to "general under honorable conditions" on his Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 3 January 2022 and, pursuant to its regulations, determined 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 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. 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 U.S. Navy and completed a period of honorable service from 4 April 1989 to 11 February 1993. On 12 February 1993, Petitioner reenlisted for a period of four (4) years. On 26 May 1994, Petitioner received nonjudicial punishment (NJP) for being drunk

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[REDACTED] USN, XXX-XX-[REDACTED]

on duty. On 7 July 1994, an alcohol evaluation from the counseling and assistance center found Petitioner may be psychologically dependent on alcohol and recommended he attend Level III inpatient treatment. On 3 August 1994, Petitioner was counseled regarding failing his physical readiness test by his failure to meet the physical readiness standards due to his body fat measurement being above the maximum allowable limit. On 9 August 1994, Petitioner was convicted in the civil court of [REDACTED], for driving under the influence (DUI) and sentenced to a fine of \$730.00, probation for six (6) months, his license was revoked for six (6) months, to complete 50 hours of community service, and his vehicle was impounded for 10 days. He was also issued a counseling warning regarding these deficiencies but retaining him in the naval service. This counseling further advised Petitioner that further misconduct may be grounds for administrative processing. On 12 September 1994, Petitioner refused to participate in Level III inpatient treatment. On 14 September 1994, Petitioner is notified of his impending separation by reason of commission of a serious offense (COSO), misconduct due to civilian conviction as a result of his DUI, and alcohol rehabilitation failure as a result of his refusal to participate in Level III inpatient treatment. Petitioner exercised his right to obtain copies of documents to be forwarded to the Chief of Naval Personnel and waived all other procedural rights. On 21 September 1994, Petitioner's commanding officer recommended he be discharged with a general (under honorable conditions) characterization of service for COSO, civilian conviction, and alcohol rehabilitation failure. On 11 October 1994, the separation authority directed Petitioner be separated with an other than honorable (OTH) characterization of service due to Misconduct – Serious Offense. Petitioner was so discharged on 21 October 1994.

d. Petitioner contends his first enlistment yielded no disciplinary infractions as did his second enlistment until the night he was arrested for DUI. He adds he was young and foolish, did not consider the consequences of his actions and choices, has lived with the regret of a single moment in time, has overcome much in his life, served proudly, and believes his overall record will confirm this assertion. Further, Petitioner states it has taken him a long time to understand the process of requesting clemency, was embarrassed by his offenses, and asks for an entire review of his record for clemency consideration.

CONCLUSION:

The Board noted Petitioner's misconduct and does not condone his actions, which subsequently resulted in an other than honorable discharge. However, in light of reference (b), taking into account his commanding officer's recommendation, 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 above, the Board directs the following corrective action:

Petitioner be issued a new DD Form 214 and new discharge certificate indicating the character of service as "general (under honorable conditions)".

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[REDACTED], XXX-XX-[REDACTED]

Block 18 of the new DD Form 214 reflect "Continued Honorable Service from 4 April 1989 to 11 February 1993."

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.

1/21/2022

[REDACTED]
Executive Director
[REDACTED]