



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

[REDACTED]
Docket No: 7770-21

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. 1552
(b) BUPERSINST 1900.8 dtd 28 Jun 1993

Encl: (1) DD Form 149
(2) Case summary
(3) Naval record (excerpts)

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 adjustment to upgrade the character of his service to general. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], [REDACTED], [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 December 2021, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and applicable statutes, regulations, and policies.

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. The Petitioner enlisted in the Navy and began a period of active duty on 25 September 1996.

d. On 17 December 1999, Petitioner reenlisted for a period of six years.

e. Petitioner's record reflects he completed the Navy drug screening program, and maintained an accurate and effective command urinalysis program.

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f. On 4 August 2003, Petitioner received non-judicial punishment (NJP) for wrongful use of a controlled substance, and unauthorized absence (UA).

g. On 25 August 2003, Petitioner was issued an other than honorable (OTH) character of service by reason of misconduct due to drug abuse.

h. Petitioner's contains an administrative error. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) does not include his period of honorable service from 25 September 1996 to 17 December 1999. Per Reference (b), Box 18 should indicate Petitioner's periods of honorable service.

i. Petitioner contends he has one mistake on his record, and he was an outstanding Sailor. Petitioner contends he has recently been release from incarceration and would like to take care of this matter. Petitioner provides excerpts from his Official Military Personnel Files (OMPF) for the Board's consideration.

CONCLUSION:

Upon review and consideration of all the evidence of record, and in light of reference (b), the Board determined Petitioner's record warrants partial relief.

In regard to Petitioner's request for upgrade to his character of service, the Board in its review of Petitioner's entire record and application with attachments, determined Petitioner failed to provide sufficient evidence to mitigate his drug related misconduct. Petitioner's record is incomplete, in that it does not contain all of the documents pertinent to the administrative separation processing. However, whenever official records are incomplete or unavailable, unless there is substantial credible evidence to rebut the presumption, the Board can presume a regularity in the conduct of the government affairs. 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, will presume that they have properly discharged their official duties. The Board considered Petitioner's contention, but determined this "one mistake" did not mitigate Petitioner's unique knowledge of the Navy's urinalysis and responsibility of his command's urinalysis program. The Board determined the Petitioner had clear understanding as to the violation of the Navy's values by his drug use. The Board found no error on injustice in the Petitioner's record, and determined he was issued the appropriate characterization of service based on the severity of his drug related misconduct. Therefore, adjustment to the character of Petitioner's service in not warranted.

Notwithstanding, the Board noted Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) contains an administrative error and warrants correction. Petitioner's DD Form 214 does not indicate his period of honorable service from 25 September 1996 to 17 December 1999.

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RECOMMENDATION:

In view of the above, the Board directs the following corrective action: Petitioner be issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215), per reference (b) to add indication of Petitioner's continuous honorable service from 25 September 1996 to 17 December 1999.

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 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.

1/19/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]