



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

█
Docket No: 1602-22
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, █

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 "general under honorable conditions" to "Honorable" 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 4 April 2022 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 the Kurta Memo, and 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 commenced active duty on 14 August 1972. On 20 August 1973, he was counseled regarding his alleged involvement with military authorities

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USN, [REDACTED]

and advised further misconduct may result in disciplinary action and processing for administrative discharge. On 21 August 1973, Petitioner received his first nonjudicial punishment (NJP) for failure to obey a lawful order and being disrespectful in language towards a superior petty officer. On 20 October 1974, Petitioner received a second NJP for disrespectful language and for assault. On 13 May 1975, administrative remarks capture the narrative reason for Petitioner's separation from active duty was "Early Release to Enter or Return to College, University, or Vocational/Technical School." On 15 May 1975, Petitioner was released from active duty and transferred to Naval Reserve with a General (Under Honorable Conditions) (GEN) characterization of service. On 17 August 1978, administrative remarks capture Petitioner's discharge from the Naval Reserve was effective 13 August 1978 in the rate of AN/E-3 with a General Discharge by reason of expiration of enlistment/fulfillment of service obligation.

d. Petitioner's contends he served two tours in Vietnam in good faith and feels he is deserving of a discharge upgrade. He adds, (1) he is not asking for compensation for hepatitis he believes he received while serving abroad, (2) he received an unjust NJP and punishment, (3) his Division Chief was prejudiced, and (4) he requested an early release from active duty to attend college.

CONCLUSION:

The Board noted Petitioner's misconduct and does not condone his actions, which subsequently resulted in a GEN discharge. However, in light of reference (b), after reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "honorable". In making this finding, the Board considered the seriousness of Petitioner's misconduct and weighed it against his final trait average of 3.06 before concluding positive aspects of his active service outweighed the negative aspects.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

Petitioner be issued a new DD Form 214 indicating the character of service as "Honorable"

Petitioner be issued an Honorable discharge certificate.

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.

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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.

4/28/2022

