



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

█
Docket No: 4766-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █, █

Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149
(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 his discharge characterization of service be upgraded from General (Under Honorable Conditions) to Honorable.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 18 July 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 Former Member'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 (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, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

c. The Petitioner enlisted in the Navy and began a period of active duty on 14 December 1961. On 3 September 1962, Petitioner began a period of unauthorized absence (UA) which lasted 22 hours. On 4 February 1964, Petitioner began a second period of UA which lasted 12 days. On the same date, Petitioner missed movement of his ship. On 19 March 1964, Petitioner was convicted by special court martial (SPCM) for UA and missing ship movement. He was sentenced to reduction to the rank of E-1 and confinement for 14 days. On 9 November 1964,

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[REDACTED]

Petitioner began a third period of UA which lasted 10 hours and 55 minutes that resulted in NJP on 13 November 1964. On 12 December 1964, Petitioner received a second NJP for being absent from his appointed place of duty. On 12 February 1965, Petitioner received a third NJP for being in possession of an illegal dangerous weapon. On 27 April 1966, Petitioner was released from active duty at the end of his obligated service. See enclosure (2).

d. Petitioner contends he was the only child in the family and his mother was suffering from anxiety with mental issues. His mother overdosed taken prescription medications, causing him to become concerned about her. Petitioner elected to drive home to check on his mother and was later declared UA. He turned himself in to local law enforcement officials, was punished for his offense, and later discharged with a General (Under Honorable Conditions) discharge characterization of service. He argued that, despite his issues, he was an honorable "soldier."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board notes the Petitioner's DD Form 214 incorrectly reflects "Other Than Honorable" as characterization of service. In this regard, Petitioner's characterization of service should reflect as "General (Under Honorable Conditions)" based on his separation at the expiration of obligated active service and enlisted performance record that documents a 3.04 final overall trait average.

However, the Board determined that insufficient evidence of error or injustice exists to upgrade Petitioner's characterization of service to Honorable. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the likely negative impact it had on the good order and discipline on the command. As a result, the Board concluded significant negative aspects of Petitioner active service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading Petitioner's characterization of service or granting clemency in the form of an upgraded characterization of service.

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 reflecting a "General (Under Honorable Conditions)" characterization of service vice "Other Than Honorable."

That no further changes be made to the record.

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[REDACTED]

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

8/5/2022

[REDACTED]