



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

[REDACTED]  
Docket No: 5334-22

Ref: Signature Date

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

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

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 (Wilkie Memo)

Encl: (1) DD Form 149 w/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 to change his narrative reason for separation and reenlistment code on his DD Form 214 following his uncharacterized entry level separation (ELS) for misconduct due to the commission of a serious offense while in initial recruit training.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 August 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 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, the Board determined that it was in the interests of justice to review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active service on 16 July 2008. While in initial recruit training ("boot camp"), Petitioner received non-judicial punishment (NJP)

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for willfully failing to train as it was his duty to do. Petitioner apparently could not swim and would not jump off of the diving board in boot camp.

d. Petitioner's command initiated entry-level administrative separation proceedings by reason of misconduct due to the commission of a serious offense. Ultimately, on 26 August 2008, after only forty-two days on active duty, Petitioner was discharged from the Navy with an entry level separation (ELS) for misconduct due to the commission of a serious offense and assigned an RE-4 reentry code.

e. In short, Petitioner stated that he could not swim and that he relayed that information to his recruiter when he joined the Navy. While in the Delayed Entry Program, he stated he even took a swimming class at a community college and still failed. During boot camp, he told his instructors he was terrified of diving boards and would not jump off of them into the recruit swimming pool. Petitioner stated he was not offered any remedial swim instruction, and he argued that he did not disobey any orders, make a scene, or otherwise cause any trouble prior to his separation.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

The Board initially determined that Petitioner's ELS was proper and in accordance with all Department of the Navy directives and policy at the time of his discharge.

In keeping with the letter and spirit of the Wilkie Memo, the Board determined that Petitioner's assigned narrative reason for separation and reentry/reenlistment code were unduly harsh given the overall circumstances and created an unnecessary negative inference. The Board concluded that the more appropriate narrative reason for separation, separation code, and reentry code should have been "Entry Level Performance and Conduct," "JGA," and "RE-8," respectively.

The Board noted that an "entry level performance and conduct separation" refers to an ELS not caused by serious misconduct within the first 180 days of continuous active duty, but instead by reason of incapability, lack of reasonable effort, failure to adapt to the naval environment, or minor disciplinary infractions. The Board noted that the separation code "JGA" was the corresponding code for an entry-level performance and conduct separation.

The Board also determined after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of clemency, that the proper and equitable reentry code in Petitioner's case should have been "RE-8," which was only available to recruits during initial training. The Board believed that the Petitioner should be given an opportunity to demonstrate that he is currently without any disqualifying issues and is otherwise fit to pursue a Navy career should he choose to do so. The Board determined that recruiting personnel will be responsible for determining whether Petitioner meets the standards for reenlistment and whether or not his reenlistment is feasible given his previous military service and experience.

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[REDACTED] USN, [REDACTED]

Accordingly, the Board granted partial relief as requested by Petitioner, namely to change his narrative reason for separation, separation code, and reentry code. The Board concluded that the revised narrative reason for separation, separation code, and reentry code were the correct DD Form 214 entries based on the totality of Petitioner's circumstances, and were proper and in compliance with all Navy directives and policy at the time of his discharge.

#### RECOMMENDATION

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

That Petitioner's the narrative reason for separation should be changed to "Entry Level Performance and Conduct," the separation authority be changed to "MILPERSMAN 1910-154," and the separation code be changed to "JGA" and the reentry code be changed to "RE-8."

That Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty.

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 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.

8/10/2022

[REDACTED]

Executive Director

[REDACTED]