



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

█
Docket No: 5968-22

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, 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 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case Summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting a change to his naval record, specifically, to upgrade his character of service. Enclosures (1) and (2) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 24 October 2022, and pursuant to its regulations, determined 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 Petitioner's naval records, and applicable statutes, regulations, and policies including reference (b).

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 interests of justice to waive the statute of limitations and review the application on its merits.

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c. Petitioner enlisted in the Navy and began a period of active service on 9 May 1980. Petitioner's record reflects two brief periods of unauthorized absences (UA) along with a 37 days UA. On 29 June 1981, Petitioner received non-judicial punishment (NJP) for UA and missing ship's movement. Subsequently, Petitioner was discharged, on 11 August 1981, with a General (Under Honorable Conditions) character of service by reason of unsuitability-personality disorder, a SPD code of JMB, and a reentry code of RE-4. Records related to his administrative separation, other than his DD Form 214, were not in his record.

d. Petitioner requests a discharge upgrade so he can earn tax benefits. Additionally, he contends he is 100% service connected disability and was informed 30 days after his discharge his character of service would upgrade to Honorable. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide supporting documentation describing post-service accomplishments or advocacy letters.

CONCLUSION:

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

In keeping with the letter and spirit of the Wilkie Memo, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214. The Board noted that normally a DD Form 215 would be issued to correct the record, however, the Board concluded a new and updated DD Form 214 is warranted to remove any potential for invasive questions.

Notwithstanding the corrective action recommended below, the Board determined Petitioner's request for a discharge upgrade lacks merit. 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. After thorough 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and weighed it against his overall service. The Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Therefore, based on the brevity of his service and his record of misconduct, the Board determined significant negative aspects of his active service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. Even in light of

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the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading Petitioner's characterization of service or granting an upgraded characterization of service as a matter of clemency or equity.

RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 reflecting, for the period ending 11 August 1981, that his narrative reason for separation was "Secretarial Authority," his separation authority was "MILPERSMAN 1910-164," his separation code was "JFF," and his reentry code was "RE-1J."

That no further changes be made to the 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.

11/17/2022

[REDACTED]

Executive Director
Signed by: [REDACTED]