



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

█
Docket No: 6184-22
Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █, █,
USN, XXX-XX-█

Ref: (a) 10 U.S.C. §1552

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 record be corrected by upgrading his discharge characterization from Other Than Honorable (OTH) to General (Under Honorable Conditions) (GEN).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 19 September 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, and reference (b), 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 the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the 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 Navy and began a period of active duty on 16 December 1985. On 21 December 1987, Petitioner began a period of unauthorized absence (UA) which lasted one day. On 6 January 1988, Petitioner received nonjudicial punishment (NJP) for a period of UA and dereliction of duty. On 6 May 1988, Petitioner received a second NJP for failure to obey a lawful order. On the same date, the suspended portion of Petitioner's previous NJP sentence was

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vacated. Subsequently, the Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, at which point, he decided to waive his procedural rights. On 11 May 1998, Petitioner submitted an appeal statement to his commanding officer's (CO) recommendation for administrative discharge. On 16 May 1988, the Petitioner's CO recommended an OTH discharge characterization of service by reason of misconduct due to commission of a serious offense. On 20 May 1988, the discharge authority approved and ordered an OTH discharge characterization by reason of misconduct due to commission of a serious offense. On 7 June 1988, Petitioner was discharged.

d. Petitioner contends his discharge characterization was unjustified considering the circumstances of his case. For purposes of clemency consideration, Petitioner provide supporting documentation describing post-service accomplishments but no advocacy letters.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting relief. The Board notes Petitioner's disciplinary infraction and does not condone his misconduct. However, the Board determined that Petitioner's discharge characterization was too severe after weighing the seriousness of his misconduct. In view of the foregoing, the Board concluded as a matter of clemency, the record should reflect that he was discharged with a GEN characterization of service vice receiving an OTH character of service. In making this finding, the Board considered Petitioner's post-discharge good conduct and accomplishments.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the Sailor's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record even under the liberal consideration standards, and that a GEN discharge characterization and no higher was appropriate.

Further, the Board found no basis to change Petitioner's narrative reason for separation, separation code, separation authority, or reenlistment code based on his record of misconduct. The Board found that Petitioner was appropriately processed and discharged for commission of a serious offense and sufficient clemency was granted to address any injustice issues with his record.

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

RECOMMENDATION

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), indicating a "General (Under Honorable Conditions)" characterization of service.

That no further changes be made to Petitioner's record.

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A copy of this report of proceedings shall 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]