



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

█  
Docket No: 7055-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF █  
█

Ref: (a) 10 U.S.C. §1552

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 to honorable. Enclosures (1) and (2) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 17 October 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 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.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

c. Petitioner enlisted in the Navy and began a period of active service on 15 January 1985. Petitioner was granted a waiver for pre-service drug/alcohol abuse. Additionally, on 21 Jan 1985, Petitioner was counseled reading the Navy's policy on drug and alcohol abuse. Petitioner's record reflects he underwent asbestos screening during his enlistment on 25 March 1987. Between 7 January 1987 through 1 March 1987, Petitioner was in an unauthorized absence (UA) status on three occasions, totaling 21 days. He received NJP, on 4 March 1987, for three specifications of UA. He was counseled regarding his misconduct on the same day, and notified further misconduct may result in the initiation of administrative separation proceedings. On 18 March 1987, Petitioner received non-judicial punishment (NJP) for three specifications of UA from his appointed place of duty, and failure to obey a lawful order. On 26 March 1987, Petitioner received his third NJP for wrongful use of marijuana. On the same day, he was notified of the initiation of administrative separation proceedings by reason of misconduct due to the pattern of misconduct and drug abuse. Petitioner waived his right to consult with counsel, and his right to review of his by an administrative discharge board (ADB). On 31 March 1987, the Petitioner was evaluated and was found not drug dependent. Petitioner received his fourth NJP, on 7 April 1987, for two specifications of being UA from his appointed place of duty. Subsequently, the discharge authority approved and directed Petitioner's discharge with an Other Than Honorable (OTH) character of service by reason of misconduct due to drug abuse and pattern of misconduct. On 15 April 1987, he was so discharged.

d. An administrative error was found upon review of Petitioner's record. On 18 October 2018, Navy Personnel Command (PERS 13), conducted an awards review and determined Petitioner was entitled to the Meritorious Unit Commendation (MUC), which is not listed on his DD Form 214.

e. Petitioner contends, he was exposed to asbestos aboard the [REDACTED]. He was unable to get aboard another ship so he states he "smoked". Petitioner states he was a good Sailor and he provides a news article regarding the movements of [REDACTED], and excerpts from his military record. For purposes of clemency 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, the Board concludes Petitioner's request warrants partial relief. Specifically, in light of the Navy Personnel Command-[REDACTED] awards review dated 18 October 2018, the Board determined Petitioner's records should reflect he was awarded the Meritorious Unit Commendation (MUC).

Regarding Petitioner's request for a discharge upgrade, 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. These included, but were not limited to, his desire for a discharge upgrade and the contentions previously discussed. 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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

seriousness of Petitioner's misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a Sailor is contrary to Navy core values and policy, renders such Sailors unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board considered the likely negative effect Petitioner's conduct had on the good order and discipline of his command. As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. Even in light of 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 clemency in the form of an upgraded characterization of service.

RECOMMENDATION:

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), to indicate his entitlement to the Meritorious Unit Commendation (MUC).

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.

11/5/2022

[REDACTED]  
Executive Director  
[REDACTED]