



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

[REDACTED]
Docket No. 3295-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] [REDACTED],
USN, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. §1552
(b) USECDEF Memo of 25 July 2018 "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), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting his characterization of service be upgraded to a General discharge.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 3 May 2023, 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 his naval service records, and applicable statutes, regulations, and policies.

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. Petitioner requested a reconsideration and his application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review the application.

c. Petitioner enlisted in the U.S. Navy and entered active duty on 27 March 1985. After completing a period of Honorable service, he was released from active duty and transferred to the Navy Reserve. After a period of Honorable service, he reenlisted and commenced his last period of reserve duty on 28 February 1993.

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d. On 13 December 1996, he tested positive for cocaine. On 11 January 1997, the Commanding Officer (CO) signed the notification of administrative separation processing and it was sent via certified mail to the Petitioner. After Petitioner failed to return the statement of awareness regarding his rights, his commanding officer recommended he be discharged with a General (Under Honorable Conditions) characterization of service due to drug abuse. However, the SA directed Petitioner be discharged with an Other Than Honorable characterization. Subsequently, he was so discharged.

e. For purposes of clemency and equity consideration, Petitioner provided documentation describing post-service accomplishments. These included educational accomplishments and character letters that describe his assistance with veterans.

CONCLUSION:

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

While the Board does not condone Petitioner's misconduct, it concluded that his post-discharge accomplishments merit relief. Therefore, in light of the Wilkie Memo, and while in no way excusing or condoning the Petitioner's serious misconduct, the Board concluded after reviewing the record holistically, and given the totality of the circumstances and purely as a matter of extraordinary leniency and clemency, that the Petitioner merits a discharge upgrade to General (Under Honorable Conditions). Based on the same rationale, the Board determined Petitioner's narrative reason for separation, separation code, and separation authority should also be changed to reflect a Secretarial Authority discharge.

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 member'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, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Additionally, the Board determined Petitioner's reentry code remains appropriate in light of his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

Commander, Navy Personnel Command shall enter into Petitioner's record appropriate administrative remarks for Petitioner's reserve period of service ending 26 June 1997 that reflect

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his discharge with a "General (Under Honorable characterization)," for the narrative reason of "Secretary Authority," with a separation code of "JFF," and a separation authority of "MILPERSMAN 1910-164." Petitioner's reentry code shall remain an RE-4.

No further changes be made to Petitioner's record.

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 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.

5/10/2023

