



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

█
Docket No. 5936-23

Ref: Signature Date

From: Correction of Naval Records
To: Secretary of the Navy

Chairman, Board for

Subj: REVIEW OF NAVAL RECORD OF █
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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

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 that his last name be changed and his characterization of service upgraded. Enclosures (1) and (2) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 4 October 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 Petitioner's naval service records, and applicable statutes, regulations, and policies to include 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 interest of justice to review the application on its merits.

c. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 1 November 1987.

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[REDACTED]

d. In September 1992, Petitioner made an admission that he smoked marijuana over the weekend in order to secure a discharge and was aware of the consequences of his actions.

e. On 19 October 1992, he received non-judicial punishment (NJP), for willfully disobeying a lawful order. He was subsequently notified for separation for drug abuse, consulted with military counsel, and waived his right to an administrative board. The commanding officer (CO) made his recommendation to the separation authority (SA). The SA accepted the recommendation and directed an Other Than Honorable (OTH) discharge. Petitioner was so discharged on 26 January 1993.

f. Petitioner provided a court order in support of the request for a name change.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. In light of reference (b), the Board concluded Petitioner should be issued DD Form 214 with the new court order name of Leonardo Gabriel Sonoqui.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in his characterization of service.

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 and drug abuse admission, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. 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. As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member 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 granting Petitioner an upgrade to his characterization of service. Accordingly, the Board determined no further relief was warranted.

RECOMMENDATION:

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

Petitioner's naval record, specifically, Block 1 of the DD Form 214, be corrected to reflect the name [REDACTED] instead of [REDACTED]

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[REDACTED]

Petitioner be issued a new DD Form 214 which reflects the name [REDACTED]”

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.

10/13/2023

[REDACTED]