



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

■
Docket No. 6915-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ■■■■■
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Ref: (a) 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

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 her characterization of service of General (Under Honorable Conditions) (GEN) be changed to Honorable (HON) on her Certificate of Release or Discharge from Active Duty (DD Form 214) and that the Correction to DD Form 214 (DD Form 215) that changed her characterization of service from GEN to under Other Than Honorable conditions (OTH) be removed from her record. Enclosures (1) through (3) apply.

2. The Board, consisting of ■■■■■, reviewed Petitioner's allegations of error and injustice on 16 October 2023, 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, 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 Navy and began a period of active service on 18 October 2000.

d. Unfortunately, the documents pertinent to Petitioner's administrative separation are not in her official military personnel file (OMPF). Notwithstanding, the Board relied on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, presumed that they properly discharged their official duties. Based on the information contained on Petitioner's DD Form 214, she was separated from the Navy, on 27 June 2002, with a GEN characterization of service, the narrative reason for separation is "Misconduct," the reenlistment code is "RE-4," and the separation code is "HKA," which corresponds to a pattern of misconduct.

e. On 21 October 2003, Petitioner was issued a DD Form 215, changing her characterization of service from GEN to OTH.

f. Petitioner contends that her discharge was unjust, she requested release from active duty after NJP for returning late from leave after she had a miscarriage, she was reprimanded for having and not reporting an abusive relationship, she endured sexual harassment and reprisals, she re-enlisted in the Army National Guard and served honorably until she received a medical discharge in 2008, she has served her community and been a good person since discharge, her disability claim from injuries sustained in the Army National Guard are on hold because of her Navy characterization of service, and she was unaware of the change to her characterization of service until her disability claim was put on hold. For purposes of clemency and equity consideration, the Board noted Petitioner provided a personal statement but no documentation describing post-service accomplishments or advocacy letters.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice. Specifically, the Board found no error in Petitioner's GEN characterization of service discharge for separation for misconduct due to a pattern of misconduct. However, the Board found that the subsequent issuance of a DD Form 215 to change the Petitioner's characterization of service was irregular, as the policy at that time, BUPERSINST 1900.8, states that a change to characterization of service is one of only three circumstances that warrants a *reissued* DD Form 214 versus a DD Form 215. The Board further noted that there was nothing in the Petitioner's record to indicate that an OTH had been directed and determined the DD Form 215 was issued in error.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned GEN characterization of service remains appropriate. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b). These included, but were not limited to, Petitioner's previously discussed contentions. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Although the Board lacked the Petitioner's entire service record book (SRB), from the documentation available, including the Petitioner's statement, the Board concluded that she was involuntarily processed for separation by reason of misconduct. In connection with this processing, she would have acknowledged the separation action and the separation authority would have approved a recommendation for

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separation. The record clearly shows that on 27 June 2002, she was discharged with a GEN characterization of service due to misconduct – pattern of misconduct.

The Board noted that the Petitioner provided no evidence to substantiate her contentions. Therefore, absent substantial evidence to the contrary, the Board determined the presumption of regularity applies to her originally assigned characterization of service. The Board also considered that an Honorable discharge is appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. As a result, the Board concluded significant negative aspects of Petitioner's service outweigh the positive aspects and continues to warrant a GEN characterization. Even in light of the Wilkie Memo and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting an Honorable characterization of service or granting additional relief as a matter of clemency or equity.

Finally, also based on the presumption of regularity, the Board determined Petitioner's narrative reason for separation, separation code, and reentry code remain appropriate. Ultimately, the Board determined any error or injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION

That Petitioner's DD Form 215, dated 21 October 2003, changing her characterization of service from GEN to OTH be removed from her record.

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

That 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.

