



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

██████████
Docket No. 7752-23

Ref: Signature Date

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

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

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 to correct his date of birth on his DD Form 214 and be granted an upgrade of his characterization of service. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 25 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.

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. Navy and began a period of active duty on 13 July 1976.

d. On 24 June 1977, the Petitioner received non-judicial punishment (NJP) for willfully disobeying a lawful order and disrespect to a petty officer. Then, on 18 August 1977, he received a second NJP for failure to go to his appointed place of duty and disrespect to a petty

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

officer. Petitioner received his third NJP, on 16 September 1977, for failure to go to his appointed place of duty and disobeying a lawful order.

e. On 14 August 1978, Petitioner was notified he was being administratively separated for failing to maintain required proficiency in rate, creating an administrative burden to the command due to minor military or disciplinary infractions, and having a performance which is noncontributory to unit readiness and mission accomplishment as specially evidence by his below average performance. Petitioner elected not to consult with military counsel and did not desire to make a written statement or protest the separation. The Petitioner was discharged, on 14 August 1978, with a General (Under Honorable Conditions) (GEN) characterization of service. He was issued a DD Form 214 that indicated his date of birth was [REDACTED].

g. Petitioner provided his driver's license and birth certificate that document his date of birth is [REDACTED]. The Petitioner also contends that he was informed after six months his GEN discharge would be changed to Honorable and he never received it.

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 215 with his corrected date of birth.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in characterization of service to Honorable. 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. However, the Board determined that his final trait average at discharge was below what was required to qualify for an Honorable characterization of service. Further, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. 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 holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner an upgraded characterization of service or granting him an upgrade as a matter of clemency or equity.

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

RECOMMENDATION:

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 14 August 1978, with the following correction:

Box 4: [REDACTED]

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

11/2/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]