



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

██████████  
Docket No. 8095-23

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
USN, ██████████

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

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting an upgrade to his character of service to general. Enclosure (2) applies.

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 his naval service records, and applicable statutes, regulations, 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 duty on 5 September 1991. After a period of continuous Honorable service, Petitioner immediately reenlisted on 5 February 1996 and commenced a second period of active duty. On 22 August 1996, Petitioner received non-judicial punishment (NJP) and he was counseled for failure to obey a lawful order for wrongful consumption of alcohol while on duty. On 13 May 1997, Petitioner received another NJP for wrongful use and possession of a controlled substance. As a result, he was notified of the initiation of administrative separation proceedings by reason of misconduct due to the commission of a serious offense and drug abuse. Petitioner waived his right to consult with

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counsel, and his right to a hearing of his case before an administrative discharge board (ADB). Subsequently, Petitioner was discharged, on 31 October 1997, with an Other Than Honorable (OTH) character of service by reason of misconduct due to drug abuse.

d. Upon his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which erroneously failed to annotate his continuous Honorable period of service from 5 September 1991 to 4 February 1996.

e. Petitioner requests forgiveness for his actions and contends that despite his five years of prior service, his last command did not have the opportunity to know him or provide rehabilitation. He explains that he had a difficult upbringing and was exposed to marijuana at his wedding. Petitioner states he is now a dedicated school bus driver to his community and is trying to make a difference in every child's life. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters.

#### CONCLUSION:

Upon review and consideration of the evidence of record, and reference (b), the Board determined Petitioner's record warrants partial relief. Specifically, the Board noted Petitioner's DD Form 214 fails to indicate his continuous honorable period of service from 5 September 1991 to 4 February 1996 and requires correction.

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 his case in accordance with the Wilkie Memo. These included, but were not limited to, his desire for a discharge upgrade and previously discussed contentions. 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 NJPs, 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. Further, the Board was not persuaded by Petitioner's contention regarding his last command and noted that he committed two separate offenses that resulted in NJP while assigned to the command and had NJP imposed on him prior to transferring to that command, during his first enlistment period. 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. While the Board appreciates Petitioner's expression of remorse and his positive contributions to his community, 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 the relief he requested or granting him the requested relief as a matter of clemency or equity.

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USN, [REDACTED]

RECOMMENDATION:

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

That Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 31 October 1997, which indicates his continuous period of Honorable service from 5 September 1991 to 4 February 1996.

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.

11/17/2023

