



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

█
Docket No. 8847-23
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) SECDEF memo, "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 that his discharge characterization of service be changed on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosure (2) applies.
2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 30 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 13 July 1988. After a period of continuous Honorable service that included two prior reenlistments, Petitioner immediately reenlisted on 20 July 2000 and began a fourth period of active duty service. On 23 March 2001, Petitioner received a second NJP for three instances of failure to obey a lawful order by wrongfully engaging in unduly familiar relationship with subordinates, four instances of making false official statements, and one instance of obstructing justice. As a result, on 13 May

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2001, Petitioner was discharged with an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense. Upon his discharge from active duty, Petitioner was issued a DD Form 214 which does not reflect his period of continuous Honorable service from 13 July 1988 to 19 July 2000.

d. Petitioner request that his record reflects his prior Honorable service. Petitioner admits he made mistakes following his reenlistment and he understands his error. However, he feels like everything he did for that was just thrown away. Petitioner claims he was a good Sailor but he made a mistake. Petitioner claims he served his country and that one mistake in judgment should not soil his soul forever. For purposes of clemency and equity consideration, the Board noted Petitioner provided Department of Veterans Affairs correspondence that partially reflects his periods of continuous Honorable service.

CONCLUSION:

Upon review and consideration of the evidence of record, the Board determined Petitioner's request warrants partial relief. Specifically, as previously discussed, the Board determined Petitioner's DD Form 214 contains an error that require correction since it does not document his aforementioned period of continuous Honorable service.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned 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, his desire to upgrade his discharge and the 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 last NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and found that his conduct showed a complete disregard for military authority and regulations. 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 Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity.

RECOMMENDATION:

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 13 May 2001, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 13JUL1988 TO 19JUL2000."

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

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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.

11/21/2023

