



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

██████████
Docket No. 9127-23

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. Enclosure (2) applies.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 29 November 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 7 September 1999. After completing his first continuous Honorable service, Petitioner immediately reenlisted on 30 October 2002. Petitioner received non-judicial punishment (NJP), on 28 January 2003, for driving while under the influence (DUI) of alcohol. Petitioner received his second NJP, on 7 July 2003, for unauthorized absence (UA). Ultimately, Petitioner was discharged with a General (Under Honorable Conditions) (GEN) character of service by reason of misconduct due to the commission of a serious offense.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
USN, [REDACTED]

d. Upon his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which erroneously fails to annotate his continuous Honorable period of service from 7 September 1999 to 29 October 2002.

e. Petitioner contends he has Honorable service by completing his first enlistment, his DUI occurred off base and there were no aggravating factors, he was given the opportunity to stay on active duty but decided to pursue a career in the civilian sector, and he is currently in alcoholics anonymous. 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. As noted previously, Petitioner's DD Form 214 does not indicate his continuous Honorable period of service from 7 September 1999 to 29 October 2002, and requires correction.

The Board determined no relief is warranted in regard to Petitioner's request for an upgrade to his character 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and found that his conduct showed a complete disregard for military authority and regulations. Further, the Board considered that Petitioner was discharged with a GEN despite the seriousness of his misconduct that resulted in two NJPs. Finally, the Board was not persuaded by Petitioner's contentions regarding the lack of aggravating factors related to his DUI and noted that the offense qualifies under Navy regulations as a serious offense based on the authorized punitive discharge punishment at court-martial. 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 the relief he requested or granting the requested relief as a matter of clemency or equity.

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) to indicate, for the period ending 26 August 2003, his continuous period of Honorable service from 7 September 1999 to 29 October 2002.

No further changes be made to Petitioner's record.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
USN, [REDACTED]

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.

12/20/2023

[REDACTED]