



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

█
Docket No. 10217-23

Ref: Signature date

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

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

Encl: (1) DD Form 149 w/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 a Certificate of Release or Discharge from Active Duty (DD Form 214) to show his previous period of Honorable service from 18 October 2004 to 17 October 2008.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 13 December 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, 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner enlisted in the Marine Corps and began a period of active duty on 18 October 2004. Petitioner subsequently completed this enlistment with an Honorable characterization of service on 29 September 2008 and immediately reenlisted.

c. On 16 December 2010, Petitioner was arrested by civilian authorities for statutory rape/sex offense and indecent liberties with a child.

d. On 14 July 2011, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps by reason of misconduct due to commission of a

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serious offense. Petitioner was advised of and waived his procedural right to consult with military counsel, and to present his case to an administrative discharge board.

e. Petitioner's commanding officer (CO) recommended to the separation authority (SA) that Petitioner be administratively discharged from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed Petitioner's OTH discharge from the Marine Corps by reason of misconduct due to commission of a serious offense. On 29 July 2011, Petitioner was so discharged. Petitioner's DD Form 214 did not reflect his previous period of continuous Honorable service.

f. Petitioner contends that his first enlistment and most of his second enlistment was Honorable.

g. For purposes of clemency and equity consideration, the Board noted Petitioner provided documentation from the Department of Veterans Affairs.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. Specifically, as previously discussed, Petitioner has a period of Honorable service from 18 October 2004 to 29 September 2008 that was not properly documented in his DD Form 214.

Applicable regulations authorize the language "Continuous Honorable Active Service" in Block 18 (Remarks) of the DD Form 214, when a service member has previously reenlisted without being issued a DD Form 214, and was separated with a discharge characterization except "Honorable." As a result, the Board determined Petitioner's naval record shall be corrected to reflect his continuous Honorable active service.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

Petitioner shall be issued a DD Form 215, for the period ending 29 July 2011, with correction to the Remarks Section, Block 18, annotating "Continuous Honorable Active Service: "18 October 2004 to 29 September 2008."

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

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

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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 Regulations, 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.

1/12/2024

[REDACTED]