



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

██████████  
Docket No. 1242-23

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) USECDEF Memo, 25 Jul 18 (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 his characterization of service be upgraded. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 21 February 2024, 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 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, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 29 June 2005.

d. On 15 May 2006, Petitioner received non-judicial punishment (NJP) for failure to obey an order. On 30 June 2007, Petitioner received his second NJP for failure to obey a lawful order and unauthorized absence (UA). Then, on 23 October 2007, Petitioner was found guilty at summary court-martial for 23 days of UA and two specifications of wrongful use of a controlled substance.

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e. Unfortunately, some documents pertinent to Petitioner's administrative separation are not in the official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy on 14 December 2007 with an Other Than Honorable (OTH) characterization of service, narrative reason for separation is "Misconduct – Drug Abuse," separation code is "HKK," and reenlistment code is "RE-4." However, Petitioner's DD Form 214 erroneously lists his active duty start date as 5 November 2005.

f. For purposes of clemency and equity consideration, the Board noted the Petitioner did not provide documentation describing post-service accomplishments or advocacy letters.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's record warrants partial relief. Specifically, Petitioner's entry date was not documented correctly on his DD Form 214 and requires correction.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in characterization 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. These included, but were not limited to, Petitioner's desire for a discharge upgrade and his deployment during his enlistment.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. In making this finding, the Board considered the seriousness of his 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. 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 Wilkie Memo 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 him relief as a matter of clemency or equity.

#### RECOMMENDATION:

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

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 December 2007, indicating block 12a. 29 June 2005.

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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.

3/8/2024

