



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

[REDACTED]
Docket No: 4419-16

SEP 27 2017

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

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

Ref: (a) 10 U.S.C. §1552

Encl: (1) DD Form 149 (NR20160004419)
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member in the Navy, filed enclosure (1) with this Board requesting correction to his Certificate of Release or Discharge from Active Duty (DD 214) to reflect an upgrade to his discharge characterization from general (under honorable conditions) to honorable, and a change to his birthday from [REDACTED]

2. The Board, consisting of Members [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 June 2017 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records and applicable statutes, regulations and policies.

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 15 April 1998. Petitioner served without disciplinary incident from over a year. On 4 October 1999, Petitioner received nonjudicial punishment (NJP) for drunk or reckless operation of a vehicle, and received forfeiture of pay, reduction in rank, restriction, and extra duty. In November 1999, Petitioner was charged by civilian authorities for driving under the influence (DUI) with a blood alcohol content of 0.08. Petitioner states that he was discharged from the Navy before the judicial disposition of the charge, but contends that he was found not guilty of the DUI.

d. On 22 December 1999, the Commanding Officer, [REDACTED] recommended your administrative separation on the basis of misconduct (commission of a serious offense) and alcohol abuse rehabilitation failure. Petitioner's Commanding Officer recommended that you be administratively separated with a general characterization of service; given that Petitioner had less than six years of service, Petitioner was not entitled to an administrative separation board.

e. Petitioner was discharged with a general characterization of service on 23 December 1999. His DD 214 reflects that his date of birth is [REDACTED]

g. Petitioner provided a copy of his Certificate of Birth, from the Commonwealth of [REDACTED] City of [REDACTED] that reflects his date of birth to be [REDACTED] not [REDACTED]

f. The Board, in its review of Petitioner's service record and application, carefully weighed all factors and determined that Petitioner is entitled to partial relief.

g. The Board found based on the Certificate of Birth, that Petitioner's DD 214 contains a clerical error and that his date of birth should be corrected to reflect [REDACTED]

h. The Board found that Petitioner is not entitled to an upgrade to his service characterization from general to honorable because Petitioner failed to comply with the Alcohol Rehabilitation requirements. The Board considered that Petitioner was arrested for DUI, but was found not guilty after his discharge from the Navy. The Board concluded that the civilian judicial outcome did not negate the 4 October 1999 NJP that Petitioner received for drunk or reckless operation of a vehicle. The Board concluded that Petitioner did not comply with his rehabilitation requirements, and that the NJP, independent of the civilian court's findings, was a sufficient basis for Petitioner's general discharge characterization. Accordingly, the Board found that the general discharge was issued without error or injustice and corrective action with respect to the service characterization is not warranted.

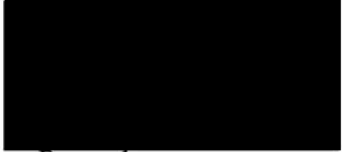

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the Certificate of Birth, that Petitioner be granted partial relief with respect to the correction of his birthday. The Board concluded that Petitioner is not entitled to relief with respect to his request for an upgrade to his discharge characterization.

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

RECOMMENDATION:

a. That Petitioner's discharge documentation be corrected to show that his birthday is [REDACTED] That Petitioner be issued a DD 215 that reflects a correction to block 5, "Date of Birth," to reflect a birthdate of [REDACTED], not [REDACTED]

- b. That a copy of this report of proceedings be filed in Petitioner's naval record.
- c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 16 May 2016.
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) 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.
- 
Recorder
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.
- 
Executive Director