



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

No: 5892-17

JAN 18 2019

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

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

Ref: (a) 10 U.S.C. § 1552
(b) USECDEF 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

Encl: (1) DD Form 149 (NR20170005892)
(2) Naval Records (Excerpts)
(3) Record of Trial (Excerpt)

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting that her bad conduct discharge (BCD) be upgraded, her reentry code changed to RE-1, and her separation code changed on her Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (4) apply.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 8 November 2018, 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, relevant portions of Petitioner's naval service 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. Enclosure (1) was filed in a timely manner, and 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 30 June 1999. Petitioner's service record reflects stellar evaluations throughout the start of her enlistment, and that her command ranked her performance as outstanding, noted that she exhibited a devotion to duty and a desire to excel, and was always ready to tackle the hardest job.

d. Petitioner received the Good Conduct Medal on 2 July 2003.

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e. On 19 October 2004, Petitioner was found guilty at general court-martial (GCM) proceedings of violating Uniform Code of Military Justice Article 80 (attempt), Article 81 (conspiracy), and Article 121 (larceny/wrongful appropriation). The Court sentenced Petitioner to confinement for 36 months, a fine of \$7,000, a reduction in rank to E-1, and a BCD.

f. Petitioner was discharged with a BCD on 16 August 2006 based on her GCM conviction and approved sentence. Her DD Form 214 reflects a reentry code of RE-4 and a separation code of JJD/902.

g. Petitioner provides a letter in which she states that she regrets the choices that she made that led to her discharge and that she has owned up to her wrongdoings and paid the fine that she was given. She further states that she truly misses serving her country. Since her discharge, Petitioner has been working in childcare serving children with special needs, has earned a Bachelor's degree, and is working on her Special Education Certification.

h. Petitioner provides several character letters, including one from her employer at Head of the Class Childcare and Learning Center that states that she has been employed with their agency for over 10 years and works 40 hours per week with children ages 3 to 5 years as a classroom teacher. Petitioner is described as being professional, kind, and caring. Petitioner also provides numerous training certificates in education and a copy of her transcript from [REDACTED] University, with a GPA of 3.78.

i. The Board carefully considered Petitioner's request in light of reference (b), and took into account her in-service accomplishments and post-discharge achievements.

j. During the post-Board review, specifics of Petitioner's charges were discovered. (Enclosure (4)) She was found guilty at GCM of two specifications of attempt to commit larceny by stealing U.S. currency of a value over \$500, four specifications of conspiring to commit larceny of U.S. currency in the value of \$43,606, \$28,762, and more than \$500 (x2), and two specifications of stealing \$43,608 and \$28,762.

MAJORITY CONCLUSION

The Majority concluded that the seriousness of Petitioner's misconduct, as evidenced by her GCM conviction, warranted her RE-4 reentry code and the narrative reason for separation of "Court Martial," as well as the separation authority of "MILPERSMAN 5815-010 GNCMSONO V05-2069 DTD 060609" and corresponding separation code of "JJD/902." The Majority determined that, even in light of the mitigating factors presented by Petitioner and the exemplary service she exhibited prior to her GCM conviction, no change of her reentry code, separation authority, separation code, or narrative reason for separation is warranted.

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However, the Majority felt that, as a matter of clemency, Petitioner's post-service accomplishments—as evidenced by her loyalty and dedication to her profession as a pre-school teacher, her educational achievements, and her good character—as well as the passage of time since her discharge and her achievement of a Good Conduct Medal during her service, warrant an upgrade to her characterization of service from BCD to general (under honorable conditions).

In view of the above, the Majority directs the following partial corrective action.

MAJORITY RECOMMENDATION:

That Petitioner be issued a new DD Form 214 that reflects a general (under honorable conditions) characterization of service.

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

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

That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 29 June 2017.

MINORITY CONCLUSION

The Minority concurred with the Majority with regard to the conclusion that no change is warranted for Petitioner's reentry code, separation authority, separation code, or narrative reason for separation.

The Minority further determined that, even in consideration of the guidance of reference (b), and taking into account Petitioner's in-service achievements and post-service accomplishments, an upgrade to her BCD was not warranted because of the seriousness of her offenses.

In view of the above, the Minority recommends the following corrective action.

MINORITY RECOMMENDATION:

That Petitioner's requests for correction to her record be denied, and that no corrective action be taken.

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.

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[REDACTED], USN, XXX-XX-[REDACTED]

5. The foregoing action of the Board is submitted for your review and action.

[REDACTED]
Executive Director

[REDACTED] MAY 10 2019

Reviewed, Majority Recommendation Approved
(Upgrade to general (under honorable conditions) -- no
further changes to record)

Reviewed, Minority Recommendation Approved
(No corrective action/Disapproval of Request)