



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

██████████
Docket No. 10034-23

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 to upgrade his character of service and change his date of birth (DOB) on his DD Form 214. Enclosure (2) applies.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 19 April 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 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 commenced a period of active duty on 28 November 1976. On 12 August 1977, Petitioner underwent a psychiatric evaluation and was diagnosed with an immature personality disorder. On 3 March 1978, Petitioner received non-judicial punishment (NJP) for assault. On 14 June 1978, he received NJP for unauthorized absence, and two specifications of missing ships movement. Subsequently, Petitioner underwent a second psychiatric evaluation and was strongly recommended for discharge based on his misconduct. Consequently, he was recommended for discharge by reason of unsuitability due to

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[REDACTED], USN, [REDACTED]

character/behavior disorder, at which point, he waived his right to consult with counsel. His commanding officer recommended his discharge with a General (Under Honorable Conditions) (GEN) character of service. The separation authority approved the recommendation and directed Petitioner's separation by reason of unsuitability. On 16 August 1978, Petitioner was so discharged. Upon his discharge, Petitioner was issued a Report of Separation from Active Duty (DD Form 214) which annotates his DOB as [REDACTED].

d. Petitioner provided a copy of his [REDACTED] birth certificate which indicates his DOB as [REDACTED] [REDACTED]” He also contends that he has matured since his discharge, has never been in trouble with the law, and is heavily involved with community service and his church. For purposes of clemency and equity consideration, the Board noted Petitioner provided advocacy letters that described post-service accomplishments.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded Petitioner's request for correction warrants partial relief. As previously discussed, the Board determined Petitioner provided sufficient evidence that his DD Form 214 incorrectly reflects his DOB and requires correction.

With regard to Petitioner's request for an upgrade to his character of service., the Board determined no relief is warranted. 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, his desire for a discharge upgrade and previously discussed contentions.

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 Petitioner's misconduct and found that his conduct showed a complete disregard for military authority and regulations.

As a result, the Board concluded significant negative aspects of Petitioner's service outweighed the positive aspects and continues to warrant a GEN characterization. While the Board carefully considered the evidence Petitioner submitted in mitigation and commends him for his post-discharge good character, 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 upgrade he requested or granting an upgrade as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

RECOMMENDATION:

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

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[REDACTED] USN, [REDACTED]

That Petitioner be issued a Correction to DD Form 214, Armed Forces of the United States Report of Transfer or Discharge (DD Form 215), for the period ending 16 August 1978, which reflects correction of Petitioner's DOB from [REDACTED] to [REDACTED]

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.

5/12/2024

[REDACTED]