



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

██████████  
Docket No. 10773-23  
Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
██████████

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 an upgrade to his character of service. Enclosure (2) applies.

2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error and injustice on 29 March 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 on 25 June 1975 and commenced a period of active duty. He received non-judicial punishment (NJP), on 12 November 1975, for unauthorized absence (UA). He received his second NJP, on 30 December 1975, for UA. He was counseled on the same day regarding his misconduct. He received his third NJP for breach of peace on 31 July 1976.

d. Petitioner's record reflects he enlisted in the Armed Forces contingent that a civil charge of grand larceny would be dismissed upon his enlistment. Petitioner's recruiter knowingly failed to

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

disclose these facts upon Petitioner's enlistment. On 18 February 1977, the separation authority approved Petitioner's enlistment to be voided and directed Petitioner's release based on a previous decision of the United States Court of Military Appeals. He was so discharged on 25 February 1977.

f. Upon his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that annotates his continuous period of service from 25 June 1975 to 25 February 1977 as "Void Enlistment."

g. Petitioner contends he had Honorable active service until the incident where he was discharged. Additionally, he requests upgrade to his character of service to General (Under Honorable Conditions) (GEN) so that he may qualify for veterans' benefits.

#### CONCLUSION:

Upon review and consideration of the evidence of record and reference (b), the Board determined Petitioner's record warrants relief. The Board found an injustice occurred by voiding Petitioner's enlistment. The Board found error on the part of Petitioner's recruiter due to his failure to disclose pertinent preservice information required of all potential recruits. The record reflects Petitioner's mother informed Petitioner's recruiter of the pretrial agreement; however, the Recruiter neglected to disclose Petitioner's civil misconduct.

The Board found Petitioner sufficiently served in the Navy to receive a complete DD Form 214 that indicates his continuous period of service from 25 June 1975 to 25 February 1977 with a GEN characterization of service and a Secretarial Authority discharge. In making this determination, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief these included, but were not limited to, Petitioner's desire for a discharge upgrade and his previously discussed contentions. Further, the Board considered Petitioner record of misconduct that included his NJPs and counseling warning. Ultimately, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record even under the liberal consideration standards for mental health conditions, and that a GEN discharge characterization and no higher was appropriate.

Finally, the Board determined Petitioner's reentry code should reflect an RE-4 based on his unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

#### RECOMMENDATION:

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

That Petitioner be issued a new DD Form 214 indicating a period of service from 25 June 1975 to 25 February 1977, characterization of service of "General (Under Honorable Conditions)" narrative reason for separation of "Secretarial Authority," separation code of "JFF," separation authority of "MILPERSMAN 1910-164," and a reentry code of "RE-4."

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.

4/22/2024

