



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

██████████
Docket No. 157-24
Ref: Signature date

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

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

Ref: (a) Title 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/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 an upgrade of his characterization of service. Enclosure (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 13 March 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, 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. Although Petitioner's application 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.

b. Petitioner enlisted in the Navy Reserve on 8 November 1976 and began a period of active duty.

c. On 17 June 1977, Petitioner received non-judicial punishment (NJP) for failure to go to his appointed place of duty, two specifications of disrespect to a petty officer, disrespectful in deportment by walking out after being told to stay, provoking speeches and gestures by using racial slurs and communicate a threat to do bodily harm.

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

d. On 13 July 1977, received his second NJP for failure to go to his appointed place of duty of restriction muster on 64 times, 14 times of extra duty, disrespect to a commissioned officer, and two specifications of disobey a lawful order.

e. Petitioner had four periods of unauthorized absence (UA) between December 1977 and October 1978 of 3 days, 2 days, 17 days, and 254 days.

f. Unfortunately, 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. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy Reserve on 9 March 1979 with Void Enlistment with no assigned character of service.

g. Petitioner contends the following injustices warranting relief:

(1) States his DD Form 214 shows 0 days of service but actually served a complete [REDACTED] cruise onboard [REDACTED]; and

(2) He was very young, and now is 65 years old and disabled, he spent two years of active duty and wish to be given credit for his time.

i. For purposes of clemency and equity consideration, Petitioner did not submit any documentation in support of his application.

j. Petitioner previously applied to this Board and was denied on 25 February 2010 and 20 March 2011.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants relief in the interests of justice.

After careful consideration of the policy established in reference (b), reviewing the record holistically, given the totality of the circumstances, and purely as a matter of clemency, the Board determined that Petitioner's character of service should be changed to General (Under Honorable Conditions) (GEN). In making this finding, the Board considered Petitioner's two NJPs and extended period of UA during his brief period of active duty service.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable (HON) discharge. The Board determined that an HON 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 outweighed the positive aspects of his military record even under the liberal consideration standards, and that a GEN discharge characterization and no higher was appropriate.

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

Further, although not specifically requested by the Petitioner and based on the same rationale for upgrading Petitioner's character of service, the Board also determined that Petitioner's narrative reason for separation, separation authority, and separation code should be changed to Secretarial Authority in the interests of justice.

Regarding Petitioner's reentry code, the Board determined a reentry code of RE-4 remains appropriate based on his unsuitability for further military service. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 9 March 1979, his characterization of service was "Under Honorable Conditions (General), the narrative reason for separation was "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," the SPD code assigned was "JFF," the separation authority was "BUPERSMAN 3850220," and the reentry code was "RE-4."

That NPC verify Petitioner's total foreign and/or sea service and make appropriate corrections to his DD Form 214.

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

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

4. It is certified that 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 Regulations, 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.

4/4/2024

