



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

██████████
Docket No. 0608-24

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, ██████████

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 reinstate his rank to E-6. Enclosure (2) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 22 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 and completed an Honorable period of active service from 29 January 1980 to 12 December 1985. Petitioner immediately reenlisted, on 13 December 1985, for a period of four years, and later extend his enlistment for an additional 10 months. Petitioner then reenlisted on 10 August 1990 for another period of four years. Petitioner finally reenlisted on a third occasion on 29 June 1994 for another period of 5 years.

d. On 10 March 1995, Petitioner was convicted at a summary court martial (SCM) for drunk and reckless driving, and wrongful use of marijuana. Consequently, Petitioner was notified of the

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

initiation of administrative separation proceedings by reason of misconduct due to drug abuse and commission of a serious offense; at which point, he elected his right to counsel with counsel and a hearing of his case before an administrative discharge board (ADB). On 5 June 1995, an ADB convened and recommended Petitioner's discharge with a General (Under Honorable Conditions) character of service. Petitioner's commanding officer concurred with the recommendation of the ADB. Subsequently, the separation authority approved the recommendation and directed Petitioner's separation by reason of misconduct due to the commission of a serious offense. On 29 September 1995, Petitioner was so discharged.

e. Upon his final discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period ending on 29 September 1995. Petitioner's DD Form 214 erroneously annotates his date of entry as 30 June 1994 vice 13 December 1985. Additionally, Petitioner's DD Form 214 for the period on 29 September 1995 does not annotate his continuous honorable period of service from 13 December 1985 to 28 June 1994. Finally, the Board noted Petitioner's DD Form 214 erroneously assigned him an Honorable characterization of service.

f. For the purposes of clemency and equity consideration, Petitioner submitted statements accepting responsibility for his actions and explains he underwent drug and alcohol abuse treatment. Petitioner also provided correspondence from the Department of Veterans Affairs, which reflect Petitioner's treatment for substance abuse since his discharge.

CONCLUSION:

Upon review and consideration of the evidence of record and reference (b), the Board determined Petitioner's record warrants partial relief. As noted previously, Petitioner's DD Form 214, for the period ending 29 September 1995, does not annotate his continuous Honorable period of service from 13 December 1985 to 28 June 1994, and erroneously annotates his date of entry as 30 June 1994 vice 13 December 1985. The Board determined these errors require correction. Regarding Petitioner's erroneous characterization of service on his DD Form 214, while the Board noted the error, as a matter of policy, it determined it was in the interests of justice not to direct a correction since it would result in adverse action against Petitioner.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned characterization of service and paygrade remain appropriate. 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 change to his paygrade. In addition, the Board considered his 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 SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. While the Board carefully

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
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considered the evidence Petitioner submitted in mitigation, 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 relief he requested or granting the requested relief 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:

That Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 29 September 1995, to reflect a date of entry of 13 December 1985, and annotate his continuous Honorable period of service from 13 December 1985 to 28 June 1994.

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.

4/9/2024

