



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

█
Docket No. 1167-24
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) 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), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting his discharge be change to General (Under Honorable Conditions).

2. The Board consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 8 July 2024 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 his naval service records, and applicable statutes, regulations, and policies including 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 did not file his application in a timely manner, the statute of limitations was waived in the interests of justice.

b. Petitioner enlisted in the Navy and began a period of active duty on 10 October 1989.

c. On 12 November 1989, Petitioner was issued administrative remarks for fighting, disobeying RTC (recruit training command) rules and regulations, and disrespect. The administrative remarks documented Petitioner was not adjusting well to Navy standards, had a poor attitude, and wanted to quit the military. It was recommended he put forth a better effort to obey NAVCRUITRACOM (Navy Recruit Training Command) regulations, complete the positive motivation unit (PMU) program, and be "set-back" [processed out of their current division and placed into a new one] for one week.

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d. On 27 November 1989, Petitioner was diagnosed with Antisocial Personality Disorder, Severe, EPTE (existed prior to entry). The clinical psychologist strongly recommended Petitioner be expeditiously discharged, "for his own safety as well as the good of the Navy."

e. On 29 November 1989, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of convenience of the government due to personality disorder. Petitioner was advised of and waived his right to consult with military counsel and to submit a statement on his own behalf.

f. On 8 December 1989, the separation authority directed Petitioner be discharged with an entry level separation by reason of convenience of the government due to personality disorder. On 14 December 1989, Petitioner was so discharged.

g. Petitioner contends: (1) the state of ██████████ requires his characterization of service be Honorable or General (Under Honorable Conditions) for him to receive state benefits, (2) he currently has a Department of Veterans Affairs (VA) disability rating of 100% and is receiving full federal VA benefits, and (3) he would like his discharge upgraded to secure state benefits. Additionally, the Board noted Petitioner checked the "Other Mental Health" box on his application but chose not to provide supporting evidence of his claim.

h. For purposes of clemency and equity consideration, the Board noted Petitioner provided VA documents and a copy of his Certificate of Release from Active Duty (DD Form 214).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, in keeping with the letter and spirit of the Wilkie Memo, the Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior and/or adjustment disorder. Describing Petitioner's service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictate a change. Accordingly, the Board concluded that Petitioner's discharge should not be labeled as being for a mental health-related condition and that certain remedial administrative changes are warranted to the DD Form 214.

With regard to Petitioner's request that his characterization of service be changed, 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, Petitioner's desire for a discharge upgrade and the 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 assigned uncharacterized entry level separation remains appropriate. The Board concluded Petitioner was properly processed and discharged with an entry level separation for his personality disorder. Service regulations direct that service members processed within their first 180 days receive an uncharacterized entry level separation. While there are exception to policy in cases involving extraordinary performance or misconduct, the Board determined neither applied in Petitioner's case. Finally, absent a material error or injustice, the Board declined to summarily change a

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discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Therefore, 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 the Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity.

Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his original basis for separation. 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 directs the following corrective action:

Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for the period ending 14 December 1989, Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," and the separation authority was "MILPERSMAN 1910-164."

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 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.

7/26/2024

