



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

██████████
Docket No. 2046-24

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, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

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 that his discharge be upgraded.

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, and 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.

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. After five periods of continuous Honorable service that commenced on 14 July 1981, Petitioner reenlisted in the Navy on 19 July 1995. Petitioner was issued two separate DD Form's 214 for his first two periods of Honorable service ending on 31 August 1983 and 20 April 1987.

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

d. On 9 April 1997, Petitioner received non-judicial punishment (NJP) for wrongful use of cocaine. On 10 June 1997, he went into an unauthorized absence (UA) status for 260 days.

e. The documents pertinent to Petitioner's administrative separation are not in his official military personnel file (OMPF). His Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that he was separated from the Navy on 25 February 1998 with an Other Than Honorable (OTH) characterization of service, his narrative reason for separation is "Misconduct Drug Abuse," his separation code is "HKK," and his reenlistment code is "RE-4." His DD Form 214 did not document his previous period of continuous Honorable service from 21 April 1987 to 18 July 1995.

f. Petitioner states that he should have received a General discharge based on his prior service, he should have received treatment instead of receiving an OTH discharge, and he is currently a model citizen, an entrepreneur, drug free and a role model within the community. For purposes of clemency and equity consideration, the Board noted Petitioner provided advocacy letters describing post-service accomplishments.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded Petitioner's request merits partial relief. As discussed, the Board noted that Petitioner's DD Form 214 does not document his previous periods of continuous Honorable service and requires correction. Thus, the Board concluded that an administrative change to Petitioner's DD Form 214 should be made to document his Honorable periods of service not previously covered by his DD Form 214s.

Regarding Petitioner's request to upgrade his characterization of service, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b). These included, but were not limited to, Petitioner's desire to change his record and his previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined Petitioner's misconduct as evidenced by his NJP and unauthorized absences, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the fact it involved a drug offense. The Board determined that illegal drug use or possession 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. The Board also considered the likely negative impact Petitioner's conduct had on the good order and discipline of his command. Further, the Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment.

As a result, the Board concluded Petitioner's conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence Petitioner provided in mitigation, even in light of

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

the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting him the relief he requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence he provided was insufficient to outweigh the seriousness of his misconduct. Accordingly, given the totality of the circumstances, the Board determined Petitioner's request does not merit any additional relief.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting 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 25 February 1998, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 21APR1987 TO 18JUL1995."

Following the corrections to the DD Form 214 for the period ending 25 February 1998, that all other information as previously listed on such DD Form 214 remain the same.

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

That 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.

3/26/2024

