

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

e. Unfortunately, many of the documents pertinent to Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relied on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, presumed that they properly discharged their official duties. Based on the information contained in the Separation Authority's Discharge Approval Letter of 26 February 2007 and Petitioner's DD Form 214, he was separated on 24 May 2007 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, his narrative reason for separation is "Misconduct Drug Abuse (board waiver)," his reentry code is "RE-4," and his separation code is "HKK," which corresponds to misconduct - drug abuse (board waiver).

f. Petitioner contends he unknowingly consumed a brownie containing THC and that he performed his duties honorably and to the best of his ability.

CONCLUSION

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

The Board found no error in Petitioner's OTH characterization of service when he was discharged for misconduct due to drug abuse. The Board noted Petitioner's disciplinary infraction and does not condone his misconduct, which resulted in his OTH characterization of service. However, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with reference (b). After reviewing the record holistically and given the totality of the circumstances and purely as a matter of clemency, the Board concluded Petitioner's discharge characterization should be changed to "General (Under Honorable Conditions)." In making this determination, the Board considered Petitioner's entire record of service, including commendatory evaluations, a Navy-Marine Corps achievement Medal (NAM), and Enlisted Surface Warfare Specialist (ESWS) qualification during his one year and ten months of service.

Notwithstanding the recommended corrective action below, 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 and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Further, the Board determined Petitioner's narrative reason for separation, separation code, and reentry code remain appropriate based on his drug abuse.

In view of the above, the Board recommends the following corrective action.

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RECOMMENDATION

That Petitioner be issued a new DD Form 214 indicating his character of service as “General (Under Honorable Conditions)”.

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 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

