



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

██████████
Docket No. 3100-24
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, 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 characterization of service be upgraded. Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 17 April 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 Petitioner's naval service records, 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, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 29 July 1989. The Petitioner fulfilled his service obligation on 7 July 1993, immediately reenlisted, and began another period of active duty. After fulfilling his service obligation he again immediately reenlisted on 31 July 1996.

d. On 18 June 1998, Petitioner tested positive for marijuana. As a result, he was notified of administrative separation processing and elected an administrative discharge board (ADB). On

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15 July 1998, the ADB found he committed misconduct due to drug abuse and recommended his discharge under Other Than Honorable (OTH) conditions. Ultimately, the Petitioner was so discharged on 14 August 1998. Upon his discharge, he was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 29 July 1989 through 30 July 1996.

e. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request for an upgrade, on 25 May 2000, based on their determination that the discharge was proper as issued.

f. Petitioner contends he started to abuse alcohol, ended up with an alcohol problem after deployment, he attended a wedding during which he unknowingly ingested marijuana laced brownies, he told his chain of command the following week and was given a urinalysis, and the administrative office filled out his discharge papers without him fully understanding his rights and how he could fight it. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters but did provide a personal statement.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, as discussed above, the Board noted Petitioner's period of continuous Honorable service was not documented on his DD Form 214 and requires correction.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in 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 the Wilkie Memo. These included, but were not limited to, Petitioner's desire for a discharge upgrade and the contentions previously discussed. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief.

In making this finding, the Board considered the seriousness of the misconduct and the fact it included drug offense. Further, the Board noted that the urinalysis he was given was a unit sweep with random urinalysis with 15 other Sailors on the list. Furthermore, the Board noted he consulted with military counsel and elected his right to a hearing before an ADB where they recommended separation with an OTH. Therefore, the Board was not persuaded by his contention that he was unaware of his due process rights or that he innocently ingested marijuana. Finally, 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. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military.

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As a result, the Board concluded his conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memo and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting relief as a matter of clemency or equity.

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 14 August 1998, indicating his continuous Honorable service for the period of 29 July 1989 through 30 July 1996.

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.

5/2/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]