



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

██████████  
Docket No. 3110-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████  
██████████

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 ██████████, reviewed Petitioner's allegations of error and injustice on 12 June 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 a period of Honorable service that commenced on 25 November 1987, Petitioner immediately reenlisted in the Navy on 13 August 1991.

d. On 10 February 1992, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) totaling seven days and missing ship's movement. On 3 April 1992, Petitioner received NJP for 22 days of UA. On 9 April 1992, petitioner received an additional NJP for absence from appointed place of duty. Consequently, he was notified of pending administrative

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separation action by reason of a pattern of misconduct. After waiving his rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of misconduct due to a pattern of misconduct with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation, and on 18 May 1992, he was so discharged.

e. At the time of his discharge, Petitioner received a DD Form 214 that did not document his period of continuous Honorable service from 25 November 1987 to 12 August 1991.

f. Petitioner states that he is now an honorable person, maintains stable employment, and his post-service behavior should qualify him for an upgrade. He argues that many years has passed since his discharge and he currently has stage VI stomach cancer.

#### 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 period of continuous Honorable service and requires correction.

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 NJPs, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the likely negative impact his conduct had on the good order and discipline of his command. Further, the Board noted while commendable, Petitioner's post service conduct does not excuse his conduct while enlisted in the Navy or the basis for his discharge. Additionally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows a discharge to be automatically upgraded after a specified number of months or years. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

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. 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.

#### RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action:

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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 18 May 1992, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 25NOV87 TO 12AUG91."

Following the corrections to the DD Form 214 for the period ending 18 May 1992, 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.

7/2/2024

