



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

██████████
Docket No. 3736-24

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, ██████████

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
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting upgrade of his discharge to Honorable (HON). Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 9 September 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. Petitioner enlisted in the Navy and began a period of active service on 28 September 1977.

d. On 15 May 1980, Petitioner received non-judicial punishment (NJP) for missing restriction musters on seven occasions.

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e. On 27 June 1980, Petitioner was convicted at Special Court-Martial (SPCM) of two occurrences of unauthorized absence (UA) for 22 days and 34 days. He was sentenced to confinement with hard labor for 30 days and reduction in paygrade to E1.

f. On 15 October 1980, Petitioner's record reflects his recent detoxification at [REDACTED] Mental Health Clinic. It was determined he was physiologically dependent on various drugs, as well as psychologically dependent on heroin. He was recommended for rehabilitation and showed a desire for rehabilitation.

g. On 4 December 1980, Petitioner was diagnosed as drug dependent after self-admitting to drug abuse prior to and during military service.

h. On 4 December 1980, Petitioner received NJP for three additional occurrences of UA, of 48 days, 3 days, and 16 days.

i. On 20 March 1981, Petitioner again received NJP for UA on two occasions, comprising 79 days and one day.

j. On 23 March 1981, Petitioner was notified of administrative separation processing by reason of misconduct for frequent involvement of a discreditable nature with military authorities. He waived his rights in the process, including his right to consult with counsel and request an administrative discharge board, and was discharged with an Other Than Honorable (OTH) characterization of service on 23 March 1981.

k. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 10 April 1995, based on their determination that his discharge was proper as issued.

l. Petitioner contends he has completed 35 years free from substance abuse, graduated with a Bachelor of Arts degree from [REDACTED] University, retired as a Manager from the State of [REDACTED], has a wonderful family, and is a homeowner in [REDACTED]. For the purposes of clemency and equity consideration, Petitioner provided his certificate in Alcohol Counseling, evidence of his Hispanic Cultural Awareness Scholarship, his Associates Degree from the University of [REDACTED] School of Medicine Department of Psychiatry in Level 1 Forensics Addictions Corrections Treatment, and his Bachelor of Arts Degree from [REDACTED] Pacific University. Petitioner also checked the "Other Mental Health" box on his application but chose not to respond to the Board's request for supporting evidence of his claim.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice. The Board reviewed his application under the guidance provided in reference (b).

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The Board found no error in Petitioner's OTH characterization of service discharge and does not condone his misconduct. 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, 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 the evidence Petitioner submitted that documented his post-discharge good character and accomplishments. The Board observed that, in addition to these accomplishment, his 35 years of sobriety shows he has successfully rehabilitated.

Based on the same rationale, the Board also concluded that Petitioner's reason for separation, separation authority, reentry code, and separation code should be changed to reflect a "Secretarial Authority" discharge.

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. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION

That Petitioner be issued a Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 23 March 1981, indicating his character of service as "General (Under Honorable Conditions)," narrative reason for separation as "Secretarial Authority," his separation authority as "MILPERSMAN 1910-164," his separation code as "JFF," and his reentry code as "RE-1J."

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.

9/18/2024

