



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

█
Docket No. 4346-24

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,
USN, XXX-XX █

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 his characterization of service be changed to Honorable on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 6 May 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 6 July 1992.

d. On 10 December 1992, Petitioner received non-judicial punishment (NJP) for disorderly conduct. On 16 November 1993, Petitioner received NJP for insubordinate conduct toward a petty officer and failure to obey a lawful order. On 24 June 1994, Petitioner received NJP for

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unauthorized absence (UA), resisting apprehension, assault upon a person in the execution of law enforcement duties by striking him across the face with his fist, and drunk and disorderly conduct of a nature to bring discredit upon the armed forces.

e. Consequently, Petitioner was notified of administrative separation processing by reason of misconduct due to commission of a serious offense. He consulted with counsel and waived his rights to submit a statement or have his case heard by an administrative discharge board. Petitioner's commanding officer recommended an under Other Than Honorable (OTH) discharge by reason of his misconduct. The discharge authority directed an OTH characterization of service and, on 29 July 1994, he was so discharged.

f. Petitioner contends that he takes responsibility for his actions, that he was a boy who drank, fought, and rushed to anger as a result of immaturity and selfish bitterness. Petitioner also contends that post-discharge, he has turned his life around. He has raised a family, does not drink alcohol, has become a police officer, achieved the rank of Captain in the [REDACTED], and is currently running for Sherrif. Petitioner states that he is moved to tears over the outpouring of support he has received in letters of reference from friends and family, as well as from the Mayor and Chief of Police. Petitioner submitted seventeen advocacy letters written to the Board, eleven Letters of Commendation/Appreciation/Thank you, twenty-one Law Enforcement certification and qualification certificates, proof of employment and promotion, and evaluations from his time as a public safety instructor.

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 discharge for separation for misconduct due to commission of a serious offense. 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). The Board noted Petitioner's disciplinary infractions and does not condone his misconduct, which resulted in his OTH characterization of service. However, after reviewing the record holistically, 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, and weighed heavily, the substantial evidence Petitioner submitted that documented his post-discharge good character and successful employment with the [REDACTED]

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

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narrative reason for separation, separation code, and reentry code remain appropriate based on his misconduct. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 29 July 1994, 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.

5/31/2024

