



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

██████████
Docket No. 4881-24

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 w/ enclosures

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. Enclosure (1) applies.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 18 October 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, 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. Although Petitioner's application 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.

b. Petitioner enlisted in the Navy and began a period of active duty on 19 July 1989.

c. He served without incident for approximately three years until, in June 1992, when he became the subject of an inquiry into an alleged theft ring. On 19 June 1992, he made an official statement to criminal investigators.

d. On 28 August 1992, formal charges under the Uniform Code of Military Justice were preferred against Petitioner related to his participation in theft of property which had been scheduled for transportation via military airlift flights.

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e. Petitioner submitted a request for separation in lieu of trial on 8 September 1992. His request was favorably endorsed by his chain of command on the basis that his involvement was considered to be minor compared to other accused. This endorsement assessed that he appeared to have come under the influence of his leading petty officer (LPO), had no prior record of in-service misconduct, and the primary contributing factor on his part seemed to be his immaturity.

f. Petitioner's request for separation in lieu of trial was approved and he was discharged with an Other Than Honorable characterization on 13 October 1992. His final trait average was 3.6.

g. Petitioner contends that, as a young, immature sailor with little experience, he made the mistake of turning a blind eye to his supervisor's theft of property from military airlift flights. He claims to have feared potential repercussions from his superior LPO if he did not comply and did not feel that he was in a position to influence an otherwise bad situation. He admits to having received a wedding gift from his supervisor, which he knew, or had reason to believe, that his LPO had stolen. He knew his LPO had stolen a grandfather clock and suspected various vehicle cargo, which his supervisor transported or directed him to transport was, more likely than not, stolen. He states that his request to change rates was motivated by his desire to escape the work environment he was subject to at that time. After his discharge, he felt that he had let his country and family down and he returned to ██████████ to work; where he undertook training and certifications, has remained employed, has received professional recognitions and awards, and has maintained a clean criminal record since his discharge. For purposes of clemency and equity consideration, Petitioner submitted over 20 advocacy letters and other supporting evidence of his post-discharge character and accomplishments.

CONCLUSION:

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

The Board noted Petitioner's misconduct and does not condone it; however, the Board observed that Petitioner has committed his life toward serving his ex-patriot community and submitted substantial evidence of his post-discharge character and accomplishments in the more than 30 years since his discharge. The Board noted additional clemency factors, to include his youth and immaturity concurrent with the adverse influence of his superiors, the otherwise commendable quality of his service noted within his official records, the non-violent nature of his misconduct, and his candor in his admissions during investigation of the alleged theft ring. The Board found that the totality of favorable factors Petitioner submitted for consideration of clemency outweighed the misconduct evidenced by his request for separation in lieu of trial. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions) and change his discharge 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

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[REDACTED]

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 assigned reentry code remains appropriate in light of his record of misconduct and unsuitability for further military service. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating, for the period ending 13 October 1992, his characterization of service was "General (Under Honorable Conditions)," with a separation authority of "MILPERSMAN 3630900," narrative reason for separation of "Secretary Plenary Authority," and separation code of "JFF."

That 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.

11/12/2024

