



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

█  
Docket No. 5283-24  
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF █  
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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  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting an upgrade to his characterization of service. Enclosures (1) through (3) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 5 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, 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 waive the statute limitation and review the application on its merits.

c. After a period of Honorable service, Petitioner reenlisted and commenced a second period of active duty with the Navy on 29 February 1988. On 9 January 1989, Petitioner received non-judicial punishment (NJP) for absence from appointed place of duty. On 13 September 1990, he received NJP for assault. On 21 February 1991, Petitioner was formerly counseled on being

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arrested for driving under the influence (DUI). On 27 March 1991, civil authorities convicted him of DUI. Petitioner received one-year probation and a fine of \$2000.00.

d. Subsequently, Petitioner was notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After he waived his rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge with a General (Under Honorable Conditions) (GEN) characterization of service. The SA disagreed with the CO's recommendation and directed an Other Than Honorable (OTH) characterization of service by reason of misconduct due to commission of a serious offense. On 14 June 1991, Petitioner were so discharged.

e. Petitioner contends that he had a lapse in judgement while serving, he is no longer the same person, has been alcohol free since discharge, has been married 31 years, is a business owner and a church deacon, and served on local Boards within the community. For the purpose of clemency and equity consideration, the Board noted Petitioner provided multiple character and advocacy letters that described his post-discharge accomplishments.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request merits relief. Specifically, in light of reference (b), 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 upgraded to General (Under Honorable Conditions). The Board noted Petitioner's disciplinary infractions and does not condone his misconduct; however, the Board considered Petitioner's post-discharge accomplishments and his contributions to society. As a result, they determined it was in the interests of justice to grant his request for an upgrade based on the mitigation evidence he provided. Further, the Board determined it was also in the interests of justice to change Petitioner's Narrative Reason for Separation to Secretarial Authority with associated changes to his SPD code, and Separation Authority.

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 even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Further, the Board concluded Petitioner's reentry code remains appropriate based on his 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 in favor of clemency warranting the following corrective action:

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RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 14 June 1991, indicating he was issued a "General (Under Honorable Conditions)" characterization of service, a Narrative Reason for Separation of "Secretarial Authority," SPD code of "JFF," and separation authority of "MILPERSMAN 1910-164."

That no further changes be made to the 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.

6/26/2024

