



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

█
Docket No. 5891-24
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

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 his discharge be upgraded.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 29 July 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and applicable statutes, regulations, and policies including 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, the statute of limitations was waived in the interests of justice.

c. Petitioner enlisted in the Navy and began a period of active duty on 21 June 1988. He completed a period of Honorable service on 22 December 1991 and immediately reenlisted on 23 December 1991.

d. On 8 October 1997, Petitioner received nonjudicial punishment (NJP) for dereliction in the performance of duties. On 18 November 1997, Petitioner reported that he was the victim of forgery in which a single book of 25 personal checks were stolen and used at various retail stores in █. Subsequently, Petitioner admitted his initial report was false and that he and his wife

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had negotiated the checks after cancelling the series so that the checks would be returned “refer to maker” vice “non-sufficient funds,” thus absolving him of financial responsibility. On 2 January 1998, Petitioner received NJP for making, drawing, uttering check, draft of or order without sufficient funds, larceny of various merchandise from various retail stores, and false official statement. Consequently, Petitioner was notified of his pending administrative separation processing by reason of commission of a serious offense (COSO), at which time he waived his rights to consult with counsel and to have his case heard before an administrative discharge board. The separation authority directed he be discharged with an Other Than Honorable (OTH) characterization of service for COSO and, on 24 February 1998, he was so discharged. Upon his discharge, Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 21 June 1988 through 22 December 1991.

e. Petitioner contends: (1) his discharge was due to his ex-wife’s mental health and financial issues for which he was held accountable, (2) during his service he received many awards for his duty, (3) post-discharge he has secured employment, assisted others in joining the military, and wants his discharge to reflect the hard work and dedication he had during his service. For purposes of clemency and equity consideration, Petitioner provided a copy of his DD Form 214 and a personal statement but no documents describing post-service accomplishments or advocacy letters.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner’s request warrants partial relief. Specifically, as noted above, Petitioner’s DD Form 214 does not document his period of continuous Honorable service and requires correction.

With regard to Petitioner’s request that his characterization of service be upgraded, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner’s case in accordance with the Wilkie Memo. These included, but were not limited to, Petitioner’s desire for a discharge upgrade and the previously discussed contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his NJP, outweighed any mitigating factors presented. In making this finding, the Board considered the seriousness of his misconduct and found that his conduct showed a complete disregard for military authority and regulations. Additionally, the Board noted that, although one’s service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. Finally, the Board observed that Petitioner provided no evidence, other than his statement, to substantiate his contentions.

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. Even in light of the Wilkie Memo and reviewing the record liberally/holistically, the Board did not find evidence of an error

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USN, [REDACTED]

or injustice that warrants granting Petitioner the relief requested or granting relief as a matter of clemency or equity.

RECOMMENDATION:

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 24 February 1988, indicating his continuous Honorable service for the period of 21 June 1988 through 22 December 1991.

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 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.

8/23/2024

[REDACTED]