



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

■
Docket No. 7000-24

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) Title 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149
(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 a change to his characterization of service to Honorable.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 20 November 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 14 May 1992.

c. On 25 June 1992, Petitioner received administrative remarks for defective enlistment and induction due to fraudulent entry into the naval service as evidenced by failure to state prior civilian arrests involving simple battery and possession of a controlled substance.

d. Subsequently, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of defective enlistments and inductions due to fraudulent entry into naval service. Petitioner waived his procedural right, to consult with military counsel, and to present his case to an administrative discharge board.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED], USN,
[REDACTED]

e. The commanding officer (CO) forwarded the administrative separation package to the separation authority (SA) recommending Petitioner be assigned an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation, and Petitioner was so discharged on 23 May 1993.

f. Petitioner contends that he was told by his recruiter not to check “yes” on convictions, as he was not convicted of anything. He admitted guilt to things that were dismissed and, at the time, he just wanted to put it all behind him. For the purpose of clemency and equity consideration, Petitioner provided documentation of post-discharge accomplishments and advocacy letters.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner’s request warrants partial relief. 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.

While the Board does not condone Petitioner’s misconduct, in light of the Wilkie Memo, after reviewing the record holistically, given the totality of the circumstances, and purely as a matter of leniency and clemency, that the Petitioner merits a discharge upgrade to General (Under Honorable Conditions). In making this finding, the Board considered the nature of Petitioner’s misconduct and the clemency and equity evidence he presented in support of his application.

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. Additionally, the Board determined Petitioner’s reason for separation and reentry code remain appropriate in light of his misconduct and unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner’s record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner’s naval record in the interests of justice:

Petitioner shall be issued a “Correction to DD Form 214, Certificate of Release or Discharge from Active Duty,” for the period ending 23 May 1993, with correction to the Character of Service, Block 24, annotating “General (Under Honorable Conditions).”

That no further changes be made to Petitioner’s record.

That a copy of this record of proceedings be filed in Petitioner’s naval record.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED], USN,
[REDACTED]

4. It is certified that 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.

12/17/2024

