



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

[REDACTED]  
Docket No. 7593-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

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

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

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.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 December 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. After two periods of Honorable service in the Navy that commenced on 12 December 1994, Petitioner immediately reenlisted in the Navy on 27 May 2003.

d. On 17 March 2004, Petitioner received non-judicial punishment (NJP) for wrongful use of cocaine. Consequently, he was notified of pending administrative separation action by reason of

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misconduct drug abuse. He elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that he committed misconduct and recommended he receive a General (Under Honorable Conditions) (GEN) characterization of service. In the meantime, Petitioner was subject to a second NJP for wrongful use of a controlled substance. However, Petitioner's commanding officer (CO) concurred with the ADB and forwarded his package to the separation authority (SA) recommending his discharge by reason of misconduct due to drug abuse with a GEN characterization of service. The SA approved the CO's recommendation and on 26 July 2004, he was so discharged.

e. At the time of his discharge, Petitioner received a DD Form 214 that failed to document his previous period of continuous Honorable service from 12 December 1994 to 26 May 2003.

f. Petitioner states that he would like to have his discharge upgraded in order to use his veterans' benefits in the state of [REDACTED].

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded Petitioner's request merits partial relief. As discussed, the Board noted that Petitioner's DD Form 214 does not document his period of continuous Honorable service and requires correction.

Regarding Petitioner's request to upgrade his characterization of service, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with reference (b). These included, but were not limited to, Petitioner's desire to upgrade his discharge and his previously discussed contention. The Board also noted he checked the "Other Mental Health" box on his application but did not respond to the Board's request for supporting evidence of his claim. For purposes of clemency and equity consideration, the Board further noted he did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined Petitioner's misconduct as evidenced by his NJPs, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the fact it involved drug related offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also considered the likely negative impact his conduct had on the good order and discipline of his command. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Finally, the Board determined Petitioner already received a large measure of clemency when his command chose not to re-notify him for administrative separation processing after his second NJP; thereby sparing him from a likely Other Than Honorable characterization of service.

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As a result, the Board concluded significant negative aspects of Petitioner's service outweigh the positive aspects and continues to warrant a GEN characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner the relief he requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined Petitioner's request does not merit any additional relief.

#### RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action:

That Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215) reflecting in Block 18. Remarks the following change:

"CONTINUOUS HONORABLE SERVICE FROM 12DEC1994 TO 26MAY2003"

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 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.

1/17/2025

