



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

██████████
Docket No. 7723-24
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, XXX-XX-██████████

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 ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 30 August 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 an initial period of active duty on 2 October 1978.

c. During his first period of enlistment, he was awarded the Humanitarian Service Medal for his participation afloat in the rescue of Vietnamese refugees who were adrift at sea.

d. Although Petitioner had a nonjudicial punishment (NJP) during his first enlistment for marijuana use, he was not processed for administrative separation and continued to serve his

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████, USN, XXX-XX-██████

contract for the next two years. He was determined to have served honorably, reenlisted, and commenced a second period of active service on 28 September 1984.

e. On 3 December 1983, Petitioner received the first NJP of his second period of enlistment for a violation of the Uniform Code of Military Justice (UCMJ) under Article 134 for knowing and wrongful use of marijuana. He was punished by 30 days of restriction with extra duty with forfeiture of \$150 pay per month for 2 months and a suspended reduction in paygrade.

f. In a substance abuse report, submitted on 23 December 1983, Petitioner was determined to have potential for future service pending completion of substance abuse rehabilitation treatment. He also admitted to pre-service drug use during his screening evaluation, which had not previously been reported at the time of his enlistment.

g. Petitioner completed level I substance abuse rehabilitation treatment on 30 January 1984 and was subject to weekly drug use testing until 16 May 1984.

h. On 11 August 1984, Petitioner received a medical evaluation which referred him to psychotherapy for stress and anxiety. During this evaluation, he reported increasing use of marijuana of the preceding six months in response to stress as an escape mechanism.

i. On 23 August 1984, Petitioner received a second NJP for a violation of Article 112a due to knowing and wrongful use of marijuana. As punishment, he was placed on 14 days of restriction and extra duty, was reduced to the paygrade of E-4, and a forfeiture of \$215 pay for a single month.

j. As a result of his second drug offense during his period of enlistment, Petitioner was notified of processing for administrative discharge by reason of misconduct due to drug abuse and elected to waive his rights incident thereto.

k. The recommendation for Petitioner's discharge under Other Than Honorable conditions was forwarded for review and the separation authority approved the recommendation. Petitioner was so discharged, on 30 September 1984, with a 3.94 final trait average.

l. Petitioner previously applied to this Board contending post-traumatic stress disorder (PTSD) but did not provide supporting medical documentation or a detailed personal statement regarding his mental health concerns or in-service traumatic experiences. His request was accompanied by an unfavorable medical advisory opinion and clemency documents showing that he has been ordained as a pastor and has a license to practice ministry; however, he did not provide any letters of support addressing what, if any, actions he has committed himself toward in light of those credentials. He was also appointed to serve as Aide-de-Camp for the ██████████ Governor's Staff in 1991 but did not provide any evidence regarding what he has done in the three decades since that time. The Board considered his request on 24 April 2023 but found insufficient evidence that his drug use was mitigated by his contended PTSD and, while the Board commended his post-discharge accomplishments, found the matters submitted for consideration of clemency and equity insufficient to outweigh the seriousness of his misconduct.

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

m. Petitioner seeks reconsideration of his contentions of clemency with three supplemental letters in support of his post-discharge character and accomplishments which were not previously considered. These letters attest to his successful pastorship and esteemed reputation within his community as the Reverend of the Victory Tabernacle Church, where he leads his congregation in helping to feed and clothe needy residents of their county in addition to ministering to the members of his church. He has also performed "extraordinary" work on construction projects within the city of Atlanta, to include repairing and updating a senior living home, and uses his talent as a craftsman to help with renovations and home improvement.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of relief. The Board reviewed his 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 community as a minister and spiritual leader of a congregation committed to serving underrepresented communities through assistance with food and clothing needs. The Board found that the favorable factors Petitioner submitted for consideration of clemency, as attested to by members of his community and the congregation he leads, outweighed the drug-abuse misconduct evidenced by the two NJPs he received during his second enlistment. In reviewing the additional clemency evidence submitted for consideration, the Board found that the totality of favorable factors outweighed Petitioner's in-service marijuana use during his second enlistment, notwithstanding his second nonjudicial punishment for continued use after his attempts at rehabilitation treatment. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service to General (Under Honorable Conditions).

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. Similarly, the Board found that Petitioner's basis for separation remains appropriate based on his extensive record of drug abuse. 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 that, for the period ending 30 September 1984, he was discharged

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

with a characterization of "General (Under Honorable Conditions)."

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.

9/20/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]