



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

██████████
Docket No. 8153-24

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████/█████ USMC

Ref: (a) 10 U.S.C. §1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)
(d) 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 a change to the spelling of his first name and discharge upgrade in light of references (b) and (c). Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error on 20 November 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 to included references (b) and (c).

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. Petitioner enlisted in the Marine Corps and began a period of active duty on 18 January 2000. Upon entry onto active duty, the Petitioner admitted to illegal use of marijuana 30 times while in the Delayed Entry Program and a waiver was required.

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d. On 17 May 2000, Petitioner's urinalysis tested positive for marijuana use. On 9 June 2000, Petitioner received non-judicial punishment (NJP) for wrongful use of marijuana.

e. Consequently, Petitioner was notified of administrative separation processing due to drug abuse. The Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that the Petitioner be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and Petitioner was so discharged on 18 July 2000. Upon his discharge, he was issued a DD Form 214 that erroneously spells his first name.

f. Petitioner contends he feels like his discharge was due to his sexual preference under the guise of drug abuse. Petitioner contends he has never been a drug abuser, and after he returned from leave and tested positive, this was labeled as drug abuser although there was no indications that he abused drugs.

g. Reference (c) sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," and the reentry code to "RE-1J," when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Specifically, the Board determined Petitioner first name is misspelled on his DD Form 214 and requires correction.

Notwithstanding the recommended corrective action below, upon review and consideration of all the evidence of record and guidance in reference (c), the Board determined Petitioner record does not reflect that he was not discharged based on DADT or a similar policy. Therefore, the Board determined reference (c) was inapplicable to Petitioner's case and 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.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP for wrongful use of marijuana, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of the misconduct and found that the conduct showed a complete disregard for military authority and regulations. 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. Further, the Board was not persuaded by Petitioner's contention that he has never

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abused marijuana and noted that he admitted to extensive pre-service drug abuse and later tested positive for drug use on his in-service urinalysis.

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 characterization. While the Board carefully considered the evidence Petitioner submitted in mitigation, 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 a discharge upgrade or granting him an upgrade 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 18 July 2000, indicating his first name "Shaun."

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.

12/11/2024

