



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

█
Docket No. 8374-24

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments
(2) Case summary

1. Pursuant to the provisions of references (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his Certificate of Release or Discharge from Active Duty (DD Form 214) reflect his current legal last name along with other administrative changes and his discharge be upgraded.

2. The Board consisting of █, █, and █, reviewed the Petitioner's allegations of error and injustice on 18 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 Former Member'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. Petitioner enlisted in the Navy and began a period of active duty on 8 June 2006. At the time of his enlistment, Petitioner received and signed an enlistment contract with his last name listed as "█." On 15 February 2007, Petitioner was discharged with an Uncharacterized (Entry Level Separation) by reason of a condition, not a disability. Subsequently, Petitioner was issued a DD Form 214 with his name listed as "█." On 3 October 2018,

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Petitioner was issued court order from ██████████, ████████ authorizing a last name change to "██████████."

d. Unfortunately, the documents pertinent to the Petitioner's administrative separation are not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that he was separated from the Navy on 15 February 2007 with an Uncharacterized (Entry Level Separation) characterization of service, his narrative reason for separation is "Condition, Not a Disability," his separation code is "JFV," and his reenlistment code is "RE-4." His separation code corresponds to separation for a condition, not a disability.

e. Petitioner is requesting to have his Character of Service on his DD Form 214 updated to reflect an Honorable discharge consistent with Department of Veterans Affairs (VA) status. Petitioner is also requesting that his name, nationality, race, religion and all-other included identifiers be corrected in his military file. Petitioner claims such incorrections on his DD Form 214 are not allowing him to conduct personal business on the military base near his home. Petitioner contends he was denied applications for DEERS and ID cards due to differences in his name on his DD Form 214, his state ID, and U.S. Passport.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial favorable action. The Board notes the Petitioner provides sufficient legal evidence of his legal name and concludes that the DD Form 214 should be changed to reflect his legal last name.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's uncharacterized entry level separation remains appropriate. 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, his desire for a discharge upgrade and his stated contentions. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that navy policy directs the assignment of an uncharacterized entry level separation for members processed for separation in their first 180 days. While there are exceptions to policy in cases involving misconduct or extraordinary performance, the Board determined neither of these exceptions applied in Petitioner's case. Further, the Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations.

Regarding Petitioner's request to have his nationality, race, and all other identifiers changed in his record, the Board determined insufficient evidence of error or injustice exists. While the Board concluded Petitioner's DD Form 214 should be changed as a matter of injustice because it

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may impact his ability to utilize his veterans' benefits, they found no evidence of injustice associated with the other requested changes to his record. Therefore, 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 any additional relief.

RECOMMENDATION:

In view of the above, the Board directed 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), for the period ending 15 February 2007, with the name reflected as "[REDACTED]."

That no further changes be made to the 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 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.

12/16/2024

