



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

[REDACTED]  
Docket No. 8378-24  
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 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 and that his record be corrected to reflect his deployment to [REDACTED] onboard [REDACTED] ([REDACTED]). Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 28 February 2025 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 4 November 1974. As part of his enlistment, he was offered a guaranteed assignment to the West Coast.

c. In August 1975, Petitioner was assigned aboard the [REDACTED] which, at that time, was forward deployed to [REDACTED].

d. The [REDACTED] began a Western Pacific deployment on 4 October 1975. Although it travelled through the [REDACTED] area of operations, it was bound for operations in the Persian Gulf.

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c. Petitioner's records reflect that he was aboard the [REDACTED], on 1 November 1975, when it crossed the equator. He was also issued performance evaluation marks on 31 January 1976; indicating that he had been aboard at least 90 days by that time.

d. A performance entry dated 11 March 1976 appears to indicate that it was incident to Petitioner's transfer from the [REDACTED] and includes no new markings due to being "less than 90 days;" presumably since his most recent marks were periodic evaluation marks.

e. On 28 March 1976, Petitioner wrote a letter to his congressman alleging that the Navy had violated his enlistment contract by assigning him overseas to the [REDACTED] when he had been guaranteed assignment to the West Coast. He additionally alleged that his experience to date made him feel that the Navy was "not for Blacks" because, in addition to violating his contractual guarantee, he had been assigned only menial jobs and had not been offered any formal school; thus, negatively impacting the future of his career.

f. Concurrent with the message traffic generated in April 1976 for the response to the Congressional inquiry, Petitioner was transferred on 27 April 1976 to the [REDACTED] ([REDACTED]). Message communications from the [REDACTED] to Naval Personnel Command (PERS) reflected that Petitioner felt strongly that his initial assignment to the [REDACTED] had violated his contract and that his reassignment to the [REDACTED], which was imminently scheduled for a Western Pacific deployment, aggravated the situation.

g. The [REDACTED] relayed that Petitioner requested an Honorable discharge as soon as possible. However, although PERS acknowledged that Petitioner had a "home guarantee" in his contract, that it had not been breached because it had been remedied by his assignment to the [REDACTED].

h. On 14 May 1976, a reply was provided to Petitioner's Congressman confirming that he had been guaranteed a West Coast assignment but had been assigned to the [REDACTED] due to administrative error. This response further explained that, although there was no official record of a formal request for discharge due to breach of contract, Petitioner had requested to be reassigned according to the terms of his contract, which had been approved via his reassignment. Additionally, to the extent that Petitioner raised issues related to racial discrimination, poor treatment, and a desire for formal schooling, the response indicated that he had been referred to the appropriate contact within his command to address such concerns.

i. On 3 June 1976, Petitioner was subject to nonjudicial punishment (NJP) for a violation of Article 86 of the Uniform Code of Military Justice (UCMJ) for a period of unauthorized absence of 13 days. As a result, he was reduced to the paygrade of E-1 with 20 days of restriction. His records reflect no further misconduct or adverse counseling entries.

j. On 20 August 1976, communication from PERS to the [REDACTED] addressed the continued Congressional interest in Petitioner's situation. It indicate that his official military personnel file (OMPF) had been reviewed and that it contained no documentation of a request for discharge. Regardless, this communication indicated that such a request would have been disapproved

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given his reassignment to the West Coast-based [REDACTED]. The communication concluded by stating that, if Petitioner continued "to be an administrative burden," the command's attention was invited to refer to the appropriate references for discharge by reason of convenience of the government.

k. Message traffic continued during the end of August 1976 regarding continued Congressional interest in Petitioner's allegation that his contract had been violated and that he should be granted a discharge. Then, on 1 September 1976, a message from the [REDACTED] to PERS stated that Petitioner continued to be an administrative burden. Intending to process him for a discharge by reason of convenience of the government, the [REDACTED] requested a waiver of the evaluation requirement for two consecutive reporting periods of at least 90 days each in the same command.

l. On 6 September 1976, Petitioner was notified of processing for a General (Under Honorable Conditions) (GEN) discharge by reason of convenience of the government due to his substandard performance of duty and his inability to adapt to military service. He elected not to make a statement and did not contest his discharge.

m. On 9 September 1976, Petitioner was discharged with a GEN characterization of service by reason of convenience of the government. Although his overall trait average exceeded a trait evaluation mark of "3.0," his conduct average was 2.96; which was .04 below that required for an Honorable characterization under the criteria of type warranted by service record.

n. Petitioner's lowest trait mark prior to his assignment aboard the [REDACTED] was 3.2. Incident to his NJP, which was his only documented conduct offense, he was issued trait marks of 3.0 for professional performance, 2.6 for military behavior, 3.2 for military appearance, and 2.6 for adaptability. Those marks were issued on 9 June 1976. He was then issued two additional sets of performance marks on 31 July 1976 and on 25 August 1976, all of which were below 3.0 with the exception of a single mark of 3.4 for personal appearance.

o. Petitioner, who is currently in hospice due to Hodgkin's Lymphoma, for which he has a 100 percent disability rating from the Department of Veterans Affairs (VA) as a presumptive condition due to the region and timing of his service, contends through his spouse and court-appointed guardian, that his GEN discharge was unjust and erroneous. He believes he deserves an upgraded characterization based upon multiple clemency factors as outlined in reference (b). He also believes that his discharge record should reflect his [REDACTED] service onboard [REDACTED]; although he notes that his exact dates aboard the [REDACTED] are unclear due to the absence of accurate records.

p. Petitioner argues that his discharge record fails to specify the authority under which he was separated or to provide evidence of the misconduct which led to his less than fully honorable characterization. Additionally, he states that his record is devoid of any adverse information which would reflect poorly upon his performance or conduct, aside from his request for a hardship discharge, which he believes was granted.

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q. In support of his contentions and for the purpose of clemency and equity consideration, in addition to a statement from his spouse, Petitioner submitted his post-service employment records, his service in the National Guard, his VA disability rating and diagnostic information, his academic records, photographs, and service records.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. The Board reviewed his application under the guidance provided in reference (b).

Regarding Petitioner's request for a discharge upgrade, the Board noted Petitioner's single unauthorized absence and does not condone it. However, the Board found insufficient evidence in Petitioner's service record to support a conclusion that his NJP was the reason for his administrative separation processing or the cause of his conduct trait mark that formed the basis for his GEN characterization of service. Rather, the Board observed that, in order to administratively process Petitioner for a convenience of the government discharge, [REDACTED] sought a waiver with respect to performance marking periods and rapidly issued Petitioner two sets of performance marks within a period of under 30 days; the majority of which were below those issued incident to his NJP. Absent any single mark among this rapid succession of anomalously low conduct trait marks, Petitioner's requisite conduct trait average was easily above the mark of "3.0" required for an Honorable discharge under type warranted by service. Additionally, the Board took into consideration the unusual circumstances surrounding his discharge and the Navy's admitted initial violation of his contract guarantees. Accordingly, the Board determined that it is in the interest of justice to upgrade Petitioner's characterization of service and change his reason for separation to reflect a Secretarial Authority discharge.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's record does not support his request to reflect his service in the [REDACTED] operations area onboard [REDACTED]. As previously discussed, Petitioner's deployment aboard the [REDACTED] merely transitioned through the region and was not assigned to the area in support of the [REDACTED] War. 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 relief with this aspect of Petitioner's application or granting the relief as a matter of clemency or equity.

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 on 8 September 1976, he was discharged with an "Honorable" characterization of service, under the authority of "BUPERSMAN 3850220," with a narrative reason for separation of "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," with a "JFF" separation code, and an "RE-1" reentry code.

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That Petitioner be issued an Honorable Discharge certificate.

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.

3/25/2025

