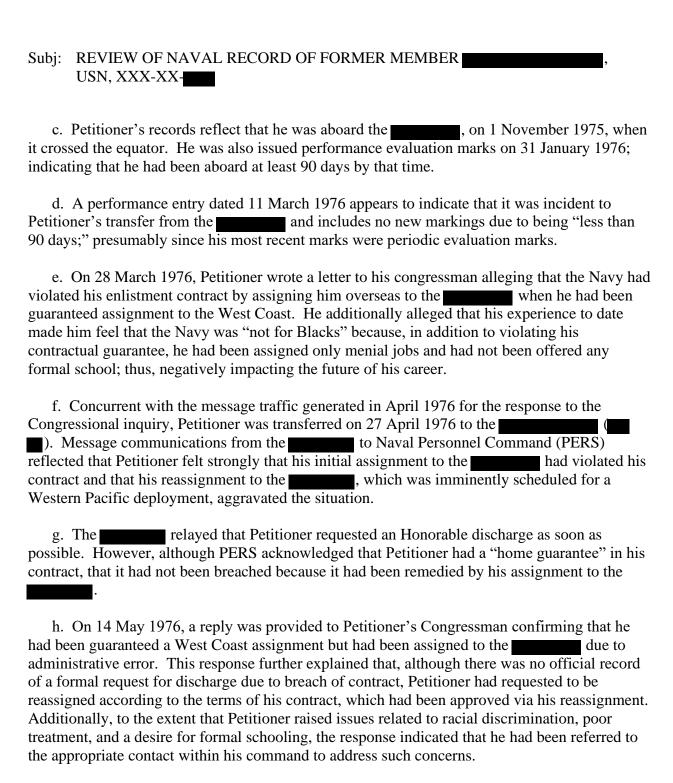


DEPARTMENT OF THE NAVY

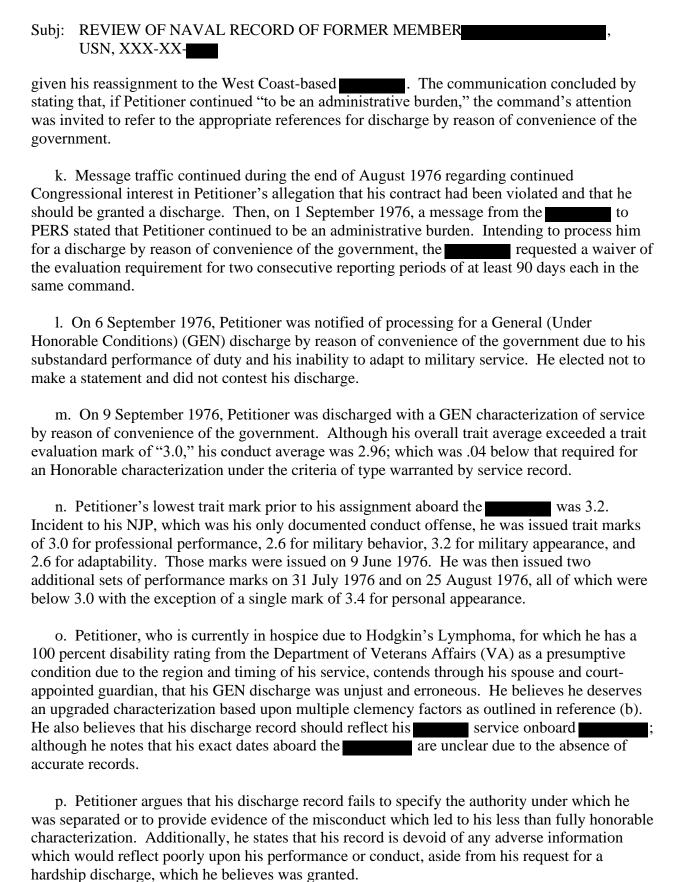
BOARD FOR CORRECTION OF NAVAL RECORDS 701 S. COURTHOUSE ROAD, SUITE 1001 ARLINGTON, VA 22204-2490

> Docket No. 8378-24 Ref: Signature Date

From: To:	Chairman, Board for Correction of Naval Records 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
enclosi	arsuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed are (1) with the Board for Correction of Naval Records (Board) requesting that his rege be upgraded and that his record be corrected to reflect his deployment to deployment (a). Enclosure (1) applies.
2. The Board, consisting of,, and, 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).	
	Board, having reviewed all the facts of record pertaining to Petitioner's allegations of nd injustice, finds as follows:
under e applica	Before applying to this Board, Petitioner exhausted all administrative remedies available existing law and regulations within the Department of the Navy. Although Petitioner's ation was not filed in a timely manner, the Board found it in the interest of justice to waive tute of limitations and consider the case on its merits.
	Petitioner enlisted in the Navy and began a period of active duty on 4 November 1974. t of his enlistment, he was offered a guaranteed assignment to the West Coast.
	In August 1975, Petitioner was assigned aboard the which, at that time, was d deployed to the control of the co
	The began a Western Pacific deployment on 4 October 1975. Although it area of operations, it was bound for operations in the Persian Gulf.



- 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 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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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, 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 operations area onboard. As previously discussed, Petitioner's deployment aboard the region and was not assigned to the area in support of the 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.

