



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

[REDACTED]  
Docket No. 8416-24

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED], USN, [REDACTED]

Ref: (a) 10 U.S.C. § 1552  
(b) USECDEF Memo of 25 July 2018 (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 that his naval record be corrected to upgrade his characterization of service and to make other conforming changes to his DD Form 214.

2. The Board, consisting of [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 15 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 Petitioner'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 interests of justice to review the application on its merits.

c. The Petitioner enlisted in the U.S. Navy and began a period of active duty service on 5 June 2002. Petitioner's pre-enlistment physical examination, on 17 September 2001, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. On 13 August 2002, Petitioner reported for duty as a student under instruction at the Defense Language Institute in [REDACTED].

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d. On 11 March 2003 Petitioner received non-judicial punishment (NJP) for three (3) separate specifications of failing to obey a lawful regulation. A portion of the punishment was suspended. Petitioner did not appeal his NJP. On the same day, Petitioner's command issued him a "Page 13" retention warning (Page 13) documenting his NJP. The Page 13 expressly advised Petitioner that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative separation.

e. On 11 June 2003, Petitioner's command vacated and enforced the suspended portion of the March 2003 NJP due to his continued misconduct. On 24 June 2003, Petitioner received NJP for an unauthorized absence (UA). Petitioner did not appeal his NJP.

f. On 21 August 2003, Petitioner's command initiated and notified him of administrative separation proceedings by reason of misconduct due to a pattern of misconduct. Petitioner was processed using "notification procedures," which meant that he was not entitled to request an administrative separation board, but the least favorable discharge characterization he could receive was General (Under Honorable Conditions) (GEN). Petitioner elected his right to consult with counsel but waived his rights to submit written rebuttal statements and to request General Courts-Martial Convening Authority review of his separation. Ultimately, on 11 December 2003, Petitioner was discharged from the Navy for a pattern of misconduct with a GEN characterization of service and assigned an RE-4 reentry code

g. On 8 February 2021, the Naval Discharge Review Board (NDRB) unanimously denied Petitioner's discharge upgrade request.

h. Petitioner's overall active duty trait average as calculated on his available performance evaluations during his enlistment was approximately 1.0 (out of a possible 5.0) in conduct. Navy regulations in place at the time of Petitioner's discharge recommended a minimum trait average of 2.50 in conduct (proper military behavior), for a fully Honorable characterization of service.

i. Petitioner's DD Form 214 currently reflects a separation code of "JKA" in block 26, and a narrative reason for separation of "Misconduct – Pattern of Misconduct."

j. Petitioner contended, in part, that a material error occurred in his discharge because he was discharged with a GEN characterization for very minor misconduct. Petitioner argued, inter alia, that he served honorably and continued to serve honorably despite experiencing three (3) motorcycle crashes resulting in concussions, memory loss, and difficulty sleep. Petitioner further argued that he has suffered immensely due to his current discharge status. For purposes of clemency and equity consideration, the Board considered the totality of the evidence Petitioner provided in support of his application.

## CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's requests warrant partial relief.

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The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant additional relief in accordance with the Wilkie Memo. As a result, in light of the Wilkie Memo, the Board concluded after reviewing the record holistically, and while not necessarily excusing, endorsing, or condoning Petitioner's pattern of misconduct, and given the totality of the circumstances and purely as a matter of leniency and clemency, that certain changes to Petitioner's DD Form 214 were warranted; specifically only changes to the narrative reason for separation (Block 28), and the corresponding separation code (Block 26) to reflect "Secretarial Authority."

Notwithstanding, the Board determined Petitioner's contentions that any alleged error, material or otherwise, purportedly occurring with his discharge and/or characterization to be totally baseless and entirely without merit. The Board concluded that Petitioner's administrative separation was legally and factually sufficient and that such discharge and characterization were in accordance with all Department of the Navy directives and policy at the time of his separation.

After thorough review, the Board concluded any potentially mitigating factors were insufficient to warrant relief in the form of a discharge upgrade. The Board determined that an Honorable discharge was appropriate only if a Sailor'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 far outweighed the positive aspects of his military record, and that a GEN discharge characterization and no higher was appropriate. The Board determined the record reflected that Petitioner's misconduct was intentional and willful and demonstrated he was unfit for further service. The Board also concluded that the evidence of record did not demonstrate that Petitioner was not mentally responsible for his conduct or that he should not be held accountable for his actions.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. The Board concluded that Petitioner's conduct marks/trait average of just 1.0 during his active duty career were a direct result of his misconduct and substandard performance of duty and further justified his GEN characterization.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and characterization, and the Board concluded that Petitioner's misconduct and disregard for good order and discipline clearly merited his discharge. 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 the full relief he requested or granting additional relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct. Accordingly, given the totality of the circumstances, the Board determined that Petitioner's request only merits the partial relief recommended below.

Further, notwithstanding the recommended corrective action below, the Board did not find a material error or injustice with the Petitioner's assigned "RE-4" reentry code. The Board

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concluded the Petitioner was assigned the correct reentry/reenlistment code based on the totality of his circumstances, and that such notation was proper and in compliance with all Department of the Navy directives and policy at the time of his discharge.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of material errors warranting 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 11 December 2003, to indicate the following changes:

That Petitioner's Block 28 narrative reason for separation should be changed to "Secretarial Authority," Block 25 separation authority be changed to "MILPERSMAN 1910-164," and the Block 26 separation code be changed to "JFF."

Following the corrections to the DD Form 214, that all other information currently listed on such DD Form 214 remain the same.

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 Regulations, 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.

11/25/2024

