



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

■
Docket No. 8674-24

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■■■■■■, USN,
XXX-XX-■■■■■

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

Encl: (1) DD Form 149
(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 his reentry code.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 16 October 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, 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 18 January 2000. Petitioner subsequently completed this enlistment with an Honorable characterization of service on 12 January 2004 and immediately reenlisted.

c. On 06 February 2008, Petitioner received non-judicial punishment (NJP) for unauthorized absence and failure to obey order or regulation. On 23 May 2008, Petitioner was convicted by civilian authorities for reckless driving. On 16 June 2008, Petitioner received NJP for drunken or reckless operation of a vehicle.

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XXX-XX-[REDACTED]

d. Subsequently, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and misconduct due to a civilian conviction. Petitioner waived his procedural right, to consult with military counsel, and to present his case to an administrative discharge board.

e. The commanding officer (CO) recommended to the separation authority that Petitioner be administratively discharged from the Navy with an Other Than Honorable (OTH) characterization of service. The CO stated that Petitioner "has a complete disregard for rules and regulations. He demonstrated immaturity and a lack of self-discipline by operating a vehicle while intoxicated and displaying poor military bearing." The separation authority approved the CO's recommendation and directed Petitioner's OTH discharge from the Navy by reason of misconduct due to commission of a serious offense. On 28 July 2008, Petitioner was so discharged and assigned an RE-4 reentry code. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) did not reflect his previous period of continuous Honorable service.

f. Petitioner contends that he took accountability and responsibility for his actions that led to his involuntary separation but claims that he did not receive support from his chain of command. Since leaving the Navy, Petitioner contends that has been a model citizen. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief. Specifically, the Board noted Petitioner has a period of Honorable service from "18 January 2000 to 12 January 2004." The Board determined Petitioner's DD Form 214 fails to document this period of service. Applicable regulations authorize the language "Continuous Honorable Active Service" in Block 18 (Remarks) of the DD Form 214, when a service member has previously reenlisted without being issued a DD Form 214 and was separated with a discharge characterization except "Honorable." As a result, the Board determined Petitioner's naval record shall be corrected to reflect his continuous Honorable active service.

Notwithstanding the recommended corrective action above, the Board found no error in Petitioner's assigned reentry code. 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, Petitioner's desire for a change to his reentry code and his previously mentioned contentions.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant the requested relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs and civilian conviction, outweighed these mitigating factors. The Board concluded, Petitioner's record reflected misconduct and behavior which clearly rendered Petitioner a burden to his command and likely adversely impacted the Sailors with whom he served. Ultimately, the Board found that Petitioner's misconduct was intentional and made him unsuitable for continued naval service. As a result, the Board determined Petitioner's conduct

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constituted a significant departure from that expected of a service member and continues to warrant an RE-4 reentry code. 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 relief he requested or granting the requested relief as a matter of clemency or equity.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

Petitioner shall be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 28 July 2008, with correction to the Remarks Section, Block 18, annotating "Continuous Honorable Active Service: "18 January 2000 to 12 January 2004."

That no further changes be made to Petitioner's record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

11/13/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]