



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

[REDACTED]  
Docket No. 10935-24  
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 with attachments  
(2) Case summary  
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting an upgrade of his characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 10 March 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, 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 service on 8 September 1993. He reenlisted, on 30 April 1997, after a period of continuous Honorable service.

d. On 5 June 2002, Petitioner received non-judicial punishment (NJP) for wrongful use of a controlled substance based on a Navy Drug Lab message indicating his urine tested positive for Tetrahydrocannabinol (THC). Petitioner was subsequently notified of administrative separation

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processing by reason of misconduct due to drug abuse. Petitioner consulted with counsel and waived his rights to make a statement or to request an administrative discharge board (ADB). Petitioner's commanding officer recommended an under Other Than Honorable (OTH) discharge. The separation authority approved the recommendation and he was so discharged on 3 September 2002. Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 8 September 1993 to 29 April 1997.

e. Petitioner contends he was in the wrong place at the wrong time and smoked a cigar that he did not know was laced with marijuana while at a baby shower. Additionally, he checked the "Other Mental Health" box on his application but chose not to submit any supporting evidence of his claim. For the purpose of clemency and equity consideration, Petitioner did not provide supporting 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, as discussed previously, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous honorable service for his first enlistment and requires correction.

Notwithstanding the recommended corrective action below, the Board found no error or injustice in Petitioner's OTH characterization of service discharge for separation for misconduct due to drug abuse. 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 previously discussed contentions.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that his misconduct, as evidenced by his NJP in his second enlistment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and the fact it involved a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board considered the likely negative effect Petitioner's misconduct had on the good order and discipline of his unit. Finally, the Board noted Petitioner provided no evidence, other than his statement, to substantiate his contention that his drug abuse was due to innocent ingestion.

As a result, the Board determined that there was no impropriety or inequity in Petitioner's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. 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 him the relief he requested or granting the requested relief as a matter of clemency or equity.

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#### RECOMMENDATION

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 3 September 2002, correcting Block 18, "Remarks" to indicate "CONTINUOUS HONORABLE ACTIVE SERVICE FROM 930908 UNTIL 970429."

That no further changes be made to Petitioner's 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.

3/28/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]