



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

[REDACTED]
Docket No. 11101-24
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 to "Honorable" and that his narrative reason for separation be changed to "Secretarial Authority." Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 28 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, 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 19 March 2002.

c. On 25 September 2003, Petitioner was subject to nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) under Articles 107 and 128, respectively, for making a false official statement and for assault. As a result, he was placed into correctional custody for a 30-day period and was required to forfeit \$703 monthly pay for one month. However, his reduction to the next inferior paygrade was suspended for a period of six months.

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d. Petitioner absented himself without authority from 14 September 2004 through 8 October 2004 and received a second nonjudicial punishment for violation of Article 86 of the UCMJ. Petitioner was punished via an oral reprimand and reduction to the next inferior paygrade with 30 days of extra duties; however, his forfeitures of pay were suspended for a period of six months.

e. On 6 January 2006, Petitioner recommended for medical disqualified from submarine duty following a medical evaluation which found him not physically qualified (NPQ) due to a documented history of a single episode of Major Depressive Disorder (MDD) with suicidal ideation and environmental inadaptability. This disqualification was approved by Commander Submarine Force, on 20 January 2006, and Petitioner was transferred to a Surface fleet assignment.

f. On 14 August 2006, Petitioner commenced a period of unauthorized absence (UA) that ended with his voluntary return to military authority on 2 January 2007.

g. On 5 January 2007, Petitioner was found guilty at NJP for the UCMJ offenses of Article 85, desertion, and Article 87, missing movement. He was notified that same day of processing for administrative separation by reason of misconduct due to the commission of a serious offense. He elected to waive his right to a hearing before an administrative separation board and did not make a statement regarding his proposed discharge.

h. On 23 January 2007, Petitioner was discharged despite the fact that his administrative separation recommendation was still in the processing of review and decision.

i. At the time of his discharge, Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) reflected a separation code of "HFK" for misconduct due to desertion and an Other Than Honorable (OTH) characterization of service. However, the notification letter from Petitioner's chain of command to Commander, Naval Personnel Command stated that he had been awarded a characterization of General (Under Honorable Conditions) (GEN).

j. On 18 April 2007, Commander, Naval Personnel Command (CNPC) directed the correction of errors in Petitioner's DD Form 214 to reflect his GEN characterization of service, with a separation code of "HKD," and for the narrative reason of misconduct due to absence without leave (AWOL). These changes were issued, on 23 May 2007, via a Correction to Certificate of Discharge or Release from Active Duty (DD Form 215).

k. Petitioner contends, with assistance of counsel, that his post-service character and accomplishments warrant consideration of an upgraded characterization of discharge under the application of clemency guidance in reference (b). He believes that he has made a significant turn-around in his life in the years since his discharge, to include rehabilitating his alcohol abuse through a 12-step program. He has 12 years of sobriety and is now a successful truck driver. Additionally, Petitioner checked the "PTSD" and "Other Mental Health" boxes on his application but did not respond to the Board's 14 November 2024 letter requesting supporting evidence of his claims. In support of his request and for the purpose of clemency and equity

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consideration, he submitted a personal declaration, his résumé, evidence of his certifications and licensing for his employment, four letters of support, and photographs.

1. Of note, Petitioner's application, which included a copy of his DD Form 214 but not of his subsequently issued DD Form 215, indicates that he believes his discharge to have been under OTH conditions.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. Specifically, the Board it was in the interests of justice to issue Petitioner a new DD Form 214 based on the unique circumstances of his case and the original error that required the issuance of a DD Form 215.

Notwithstanding the recommended corrective action below, the Board determined no other relief is merited. 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 change to his reason for separation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and found that his conduct showed a complete disregard for military authority and regulations. Further, upon review of records pertaining to Petitioner's final period of UA, his NJP, and his administrative separation processing, the Board found that substantial clemency appears to have already been applied to his MDD and resulting disqualification from submarine duty, notwithstanding the error in his DD Form 214, given that he was ultimately discharged under honorable conditions in spite of repeated, serious misconduct.

Therefore, while the Board carefully considered the evidence Petitioner submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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. Ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

Finally, the Board determined Petitioner's assigned reentry code remains appropriate in light of his record of misconduct and unsuitability for further military service. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

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RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating, for the period ending 23 January 2007, he was discharged with a "General (Under Honorable Conditions)" characterization of service, under the authority of "MILPERSMAN 1900-142," with a narrative reason for separation of 'Misconduct – AWOL,' and a "HKD" separation code.

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.

4/15/2025

