



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

[REDACTED]
Docket No. 11191-24
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]
[REDACTED], USN, [REDACTED]

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

Encl: (1) DD Form 149 w/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 for an upgrade of his character of service.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 19 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 10 September 1998. Petitioner subsequently completed this enlistment with an Honorable characterization of service and immediately reenlisted on 9 March 2002.

c. On 25 March 2004, Petitioner received non-judicial punishment (NJP) for absence without leave and false official statement. Additionally, Petitioner received an administrative remarks (Page 13) retention warning counseling him concerning deficiencies in his performance and conduct. The Page 13 expressly advised Petitioner that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative separation.

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[REDACTED], USN, [REDACTED]

d. On 20 April 2004, Petitioner received his second NJP for false official statement and breaking restriction.

e. Unfortunately, the Notice of Administrative Board Procedure's was not in Petitioner's official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

f. On 21 April 2004, the separation authority directed Petitioner's administrative discharge from the Navy with a General (Under Honorable Conditions) (GEN) character of service by reason of misconduct due to a pattern of misconduct. The separation authority stated in pertinent part:

Despite repeated attempts to help [Petitioner] become a productive Sailor, he continues to demonstrate a negative trend of misconduct that cannot be tolerated. He has been described by his chain of command as an average Sailor, who applies little or no effort to his assigned work. Despite frequent counseling and constant supervision, it is obvious that his pattern of misconduct seems likely to continue. [Petitioner's] maturity level and lack of professional motivation are not in keeping with either minimum standards expected of a naval service member or Navy Core Values. His actions have shown lack of self-discipline and brought discredit upon himself this command and the United States Navy.

Petitioner was so discharged on 30 April 2004. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) did not reflect his previous period of continuous Honorable service.

g. Petitioner contends the following injustices warranting relief:

(1) He was unfairly targeted by his supervising Chief and Officers through bullying, racial profiling, and discriminatory actions, with intent to force him out of the Navy.

(2) He did not have any prior infractions and did not wish to be separated [from the Navy].

(3) He challenges the decisions that were made under the leadership of his supervising Chief given his supervising Chief's inappropriate behavior that led to his discharge.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief in the interests of justice. Specifically, as previously discussed, the Board noted Petitioner's previous period of continuous Honorable service between 10 September 1998 and 8 March 2002 is not annotated on his DD Form 214 and requires correction.

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

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[REDACTED], USN, [REDACTED]

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. Further, the Board concluded that Petitioner's record shall be reviewed, and that corrections shall be made to Block 12a – 12h, as appropriate.

Regarding Petitioner's request for a discharge upgrade, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in his case in accordance with reference (b). These included, but were not limited to, Petitioner's desire for a discharge upgrade and the previously mentioned contentions raised by Petitioner in his application.

After thorough review, the Board concluded Petitioner's potentially mitigating factors were insufficient to warrant granting a change to his assigned characterization of service. 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 his misconduct and concluded his misconduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct; which led to his GEN discharge. His conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Furthermore, the Board determined that the evidence of record did not demonstrate that Petitioner was not responsible for his conduct or that he should otherwise not be held accountable for his actions. The Board found that his misconduct was intentional and made him unsuitable for continued naval service.

Therefore, 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 Petitioner a discharge upgrade or granting 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 30 April 2004, with a correction to the Remarks Section, Block 18, annotating "Continuous Honorable Active Service: "10 September 1998 to 8 March 2002."

Petitioner's record shall be reviewed to make any corrections to Blocks 12a – 12h, as appropriate, based on his period of service from 10 September 1998 to 30 April 2004.

That no further correction action be taken on Petitioner's naval record.

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

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[REDACTED], USN, [REDACTED]

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.

4/7/2025

