



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

[REDACTED]
Docket No. 12267-24
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, XXX-XX-[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), Petitioner filed enclosure (1) with the Board for Corrections of Naval Records (Board), requesting that his naval record be corrected to upgrade his characterization of service and change his reason for separation and reentry code.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 21 February 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 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 service on 6 January 1997. Petitioner's pre-enlistment physical examination, on 17 May 1996, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

d. On 10 April 1997, Petitioner received non-judicial punishment (NJP) for underage drinking. Petitioner did not appeal his NJP. On 9 May 1997, Petitioner's command issued him a "Page 13" warning (Page 13) documenting his NJP. The Page 13 advised Petitioner that any

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further deficiencies in performance and/or conduct will result in disciplinary action and possibly processing for administrative discharge. Petitioner did not submit a Page 13 rebuttal statement.

e. On 12 May 1997, Petitioner commenced a period of unauthorized absence (UA) that terminated on 16 July 1997. On 13 August 1997, Petitioner received NJP for his 65-day UA. Petitioner did not appeal his NJP. On the same day, Petitioner's command issued him a documenting his UA. The Page 13 advised Petitioner that any further deficiencies in performance and/or conduct will result in disciplinary action and in processing for administrative separation.

f. On 1 June 1998, Petitioner commenced a period of UA that terminated on 2 June 1998. On 10 June 1998, Petitioner received NJP for: (i) seven separate UA specifications for missing musters, and (b) wrongfully possessing and attempting to use a void pass taken from base security. Petitioner did not appeal his NJP.

g. On 10 June 1998, Petitioner's command notified him of administrative separation proceedings by reason of misconduct due to: (i) a pattern of misconduct, (ii) the commission of a serious offense, (iii) drug abuse, and (iv) homosexual conduct. The Petitioner waived his rights to consult with counsel and to request an administrative separation board.

h. In the interim, on 16 June 1998, Petitioner was diagnosed with alcohol and cannabis abuse. On 6 August 1998, the Separation Authority approved and directed Petitioner's discharge for misconduct with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 14 August 1998, the Petitioner was discharged from the Navy for misconduct with an OTH characterization of service and was assigned an RE-4 reentry code.

i. Petitioner requested clemency in the form of a discharge upgrade and to make certain additional conforming changes to his DD Form 214. In short, Petitioner argued that he had addressed certain issues leading to his discharge with positive actions post-service. For the purpose of clemency and equity consideration, Petitioner proffered two college transcripts, advocacy letters, and certain job-related achievements as evidence of his exemplary post-service achievements and accomplishments.

CONCLUSION:

Upon review and liberal consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief.

The Board initially determined that Petitioner's administrative separation was legally and factually sufficient, and in accordance with all Department of the Navy directives and policy at the time of his discharge. 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 determined 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.

However, in keeping with the letter and spirit of the Wilkie Memo, and although the Board does not condone the Petitioner's misconduct, the Board noted that flawless service was not required

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for discharge upgrade consideration. Accordingly, while not necessarily excusing or endorsing the Petitioner's cumulative misconduct, the Board concluded that no useful purpose is served by continuing to characterize the Petitioner's service as having been under OTH conditions, and that a discharge upgrade to "General (Under Honorable Conditions)" (GEN) and change his reason for separation to "Secretarial Authority," strictly on clemency and equity grounds, is appropriate at this time. In recommending relief, the Board cited his notable post-service conduct and the passage of time.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an Honorable discharge characterization. The Board determined that an Honorable discharge was appropriate only if the Sailor's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that significant negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record, and that a GEN discharge characterization and no higher was appropriate. Additionally, in light of the Wilkie Memo, the Board still similarly concluded after reviewing the record holistically and given the totality of the circumstances and purely as a matter of clemency and equity, that the Petitioner only merits a GEN characterization of service and no higher.

Further, the Board did not find a material error or injustice with the Petitioner's original "RE-4" reentry code. The Board concluded the Petitioner was assigned the correct reentry code based on the totality of his circumstances, and that such notation was proper and in compliance with Department of the Navy directives and policy at the time of his discharge. Ultimately, the Board determined that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

That Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty, for the period of service ending 14 August 1998, indicating his character of service as "General (Under Honorable Conditions)," with the narrative reason for separation of "Secretarial Authority," under the separation authority of "MILPERSMAN 1910-164," and a separation code of "JFF."

No further changes to Petitioner's record are merited.

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

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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.

3/14/2025

