



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

█
Docket No. 2011-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
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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), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his discharge characterization of service be upgraded. Enclosure (2) applies.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 14 July 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, applicable statutes, regulations, and policies.

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 duty on 14 July 1993. On 31 October 1995, you began a period of unauthorized absence (UA) which lasted six days. While on UA status, Petitioner was apprehended by civil authorities and charged with malicious wounding. On 10 January 1997, Petitioner began a second period of UA which lasted three days and resulted in nonjudicial punishment (NJP) on 14 February 1997. Consequently, Petitioner was counseled concerning deficiencies in performance and conduct; specifically, a period of UA. Petitioner was advised that failure to take corrective action could result in administrative separation. On 11 March 1998, Petitioner began a third period of UA which lasted 10 days and

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resulted in him missing ship movement. On 22 April 1998, Petitioner received a second NJP for that period of UA and missing ship's movement. On 29 April 1998, Petitioner was counseled concerning his previous UCMJ violations resulting in NJP. Petitioner was advised that failure to take corrective action could result in administrative separation. On 9 July 1998, Petitioner was honorably discharged by reason of immediate reenlistment.

d. On 10 July 1998, Petitioner began a second period of active duty service. On 30 September 1998, Petitioner received a third NJP for wrongful use of a controlled substance-THC. Consequently, Petitioner was notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse; at which point, he decided to waive his procedural rights. Petitioner's commanding officer recommended that he be administratively separated from the Navy with an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation and Petitioner was so discharged on 4 November 1998. Upon his discharge, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that did not annotate his period of continuous Honorable service from 14 July 1993 to 9 July 1998.

e. Petitioner contends he successfully completed his first term of service and reenlisted during a six-month tour. Upon returning home, Petitioner asserts he was in the presence of other's activities which caused him to fail a urinalysis due to THC. Petitioner realized that he had the opportunity to refute the results; however, at that time he was dealing with the fact that his mother was dying from bilateral breast cancer. Petitioner deemed this as an opportunity to go home and help care for and be with his mother while she was in her death bed. Petitioner asserts he did not consume nor he ever admit to the activity to be involved in consuming THC.

CONCLUSION:

Upon review and consideration of the evidence of record, the Board determined Petitioner's request warrants partial relief. Specifically, the Board determined Petitioner's DD Form 214 does not document his aforementioned period of continuous Honorable service and requires correction.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned characterization of service remains appropriate. 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 the contentions discussed above. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149 and the character letters he provided in support of it.

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 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 included a drug related offense. The Board determined that illegal drug use by a service member is contrary to

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military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board considered the likely negative effect Petitioner's drug abuse 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 he tested positive for marijuana use due to innocent ingestion. Therefore, the Board was not persuaded by his argument.

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 Petitioner the relief he requested or granting the requested relief as a matter of clemency or equity.

In view of the above, the Board directs the following corrective action.

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 4 November 1998, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM 14JUL1993 TO 9JUL1998."

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.

7/31/2025

