



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

■
Docket No. 5756-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ■■■■■■■■■■,
USN, XXX-XX-■■■■■

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 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 ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 6 February 2026 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)¹.

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 25 November 1988. After a period of continuous Honorable service that included a prior reenlistment, on 18 November 1992, Petitioner again reenlisted on 22 August 1997 and commenced his last period of active duty.

¹ The Board noted that Petitioner checked the "Other Mental Health" box on his application but did not provide any evidence in support of his claim and did not raise any issues related to mental health in his application. Therefore, the Board did not apply the guidance contained in the Kurta memo.

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d. Petitioner's History of Assignments indicated he was assigned a period of Limited Duty while stationed in [REDACTED], [REDACTED] on 28 September 2001. Petitioner extended his enlistment for seventeen months on 26 June 2002 and transferred to [REDACTED] on 12 August 2002.

e. On 2 October 2002, Petitioner received non-judicial punishment (NJP) for unspecified misconduct. However, on 15 November 2003, Petitioner was promoted to OS1/E-6.

f. On 5 December 2003, Petitioner was again subject to NJP for unspecified misconduct and was awarded reduction in rank (to E-5) and forty-five days of extra duty.

g. On 30 December 2003 Petitioner commenced a fourteen-day period of UA that ended in his apprehension on 13 January 2004. The same day, Petitioner was charged with desertion, failure to obey a lawful order, wrongful use of amphetamine, methamphetamine, and marijuana, two specifications of wrongful appropriation of an automobile (value of fifteen thousand and thirty thousand dollars respectively), and uttering a worthless check. The adjudication of these charges is not in Petitioner's record; however, his DD Form 214 indicates his rank was reduced to OS2/E-4 prior to discharge.

h. On 14 January 2004, Petitioner was notified of administrative separation processing by reason of misconduct due to commission of a serious offense, pattern of misconduct, and drug abuse. He waived his right to consult with counsel, make a statement, or request an administrative discharge board. Subsequently, the separation authority directed an under Other Than Honorable (OTH) discharge by reason of misconduct due to drug abuse and Petitioner was so discharged on 10 February 2004. Upon his discharge, Petitioner was issued a DD Form 214 that did not annotate his period of continuous Honorable service from 25 November 1988 to 21 August 1997.

i. Petitioner contends he became addicted to pain medication after Anterior Cruciate Ligament (ACL) reconstruction surgery while in [REDACTED]. He also contends he was incarcerated for nine months in 2004 due to drug-related charges and has since achieved sobriety and turned his life around. Petitioner submitted a supplemental personal statement but 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 previously discussed, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service for his first two enlistments and requires correction.

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

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The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. While the Board carefully considered Petitioner's contention for mitigation, the Board noted Petitioner did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that Petitioner committed the misconduct that formed the basis of his administrative separation and no error exists with his OTH characterization of service.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, Petitioner's contentions, the totality of Petitioner's service, Petitioner's need for veterans' benefits, the non-violent nature of Petitioner's misconduct, the negative effect Petitioner's discharge has had on his life, Petitioner's rehabilitation efforts, Petitioner's post-service record of accomplishments, Petitioner's candor and remorse, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct far outweighed all of the mitigating factors combined. In particular, 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 noted that Petitioner provided no evidence, other than his statement, to support his contentions. Finally, the Board believed that it would be unjust to characterize Petitioner's less than honorable service in the same manner as the service of the thousands of service members who, unlike Petitioner, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of Petitioner discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. While the Board commends Petitioner's rehabilitation efforts and accomplishments, ultimately, the Board concluded the mitigation evidence Petitioner provided was insufficient to outweigh the seriousness of his misconduct.

Accordingly, given the totality of the circumstances, the Board determined Petitioner's request does not merit any additional relief.

RECOMMENDATION:

That Petitioner be issued a correction to DD Form 214 (DD Form 215), for the period ending on 10 February 2004, correcting Block 18, "Remarks" to indicate:

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 881125 UNTIL 970821."

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.

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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.

2/23/2026

