



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

■
Docket No. 6031-25

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 9 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).

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 20 August 2003. On 2 October 2003, he was issued an administrative remarks (Page 13) counseling concerning fraudulent enlistment for failure to disclose a pre-service civil conviction for grand theft. He was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. After a period of continuous Honorable service, Petitioner immediately reenlisted, on 17 August 2007, and commenced his final period of active duty.

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d. On 18 May 2009, Petitioner received non-judicial punishment (NJP) for wrongful use of a controlled substance, Tetrahydrocannabinol (THC) as determined by urinalysis. The same day, Petitioner was notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse. He waived his rights to consult counsel, submit a statement, or have his case heard by an administrative discharge board. The separation authority subsequently directed his discharge with an OTH characterization of service and he was so discharged on 29 May 2009.

e. Petitioner contends he desires an upgrade so can have access to Department of Veterans Affairs (VA) benefits¹. He contends that none of his misconduct should bar his access to benefits, and his misconduct was a one-time mistake, influenced by financial difficulties and stress from an upcoming permanent change of station move. Petitioner also asserts post-service good conduct. Petitioner submitted a supplemental personal statement, and four 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 discussed above, the Board noted that Petitioner's DD Form 214 does not include a statement of continuous Honorable service for his first enlistment and requires correction.

Notwithstanding the recommended corrective action below, the Board determined no further relief is warranted.

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 admitted to 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 his service, Petitioner's need for veterans' benefits, the non-violent nature of his misconduct, Petitioner's relative youth and immaturity at the time of his misconduct, the negative effect Petitioner's discharge has had on his life, Petitioner's rehabilitation efforts and post-service record of accomplishments, Petitioner's candor and remorse, Petitioner's service to his community, the character references Petitioner provided for review, and the passage of time since his 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

¹ The Board noted that Petitioner is likely eligible for VA benefits based on his period of continuous Honorable service from 20 August 2003 to 16 August 2007. However, eligibility for VA benefits falls entirely under the cognizance of the VA. Thus, the Board recommends Petitioner contact the VA to determine his eligibility based on the correction made to his record.

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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, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. While the Board considered Petitioner's possible need for veterans' benefits to address his health concerns, they determined the severity of his misconduct outweighed any mitigation resulting from it. 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.

RECOMMENDATION

That Petitioner be issued a correction to DD Form 214 (DD Form 215) correcting Block 18, "Remarks" to indicate:

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 030820 UNTIL 070816."

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.

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.

2/26/2026

[REDACTED]

Executive Director

Signed by: [REDACTED]