



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

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Docket No. 6353-25

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,  
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Ref: (a) Title 10 U.S.C. §1552

(b) SECDEF Memo of 13 Sep 14 (Hagel Memo)

(c) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments

(2) Naval record (excerpts)

(3) Advisory Opinion

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 characterization of service to be Honorable.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 20 January 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, applicable statutes, regulations, and policies, to include references (b) and (c). In addition, the Board considered enclosure (3); an advisory opinion (AO) from a qualified mental health professional. Although Petitioner was provided an opportunity to respond to the AO, he chose not to do so.

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 regulation within the Department of the Navy.

b. Although enclosure (1) was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider Petitioner's case on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 12 September 2000. After a period of continuous Honorable service that included two enlistment periods, Petitioner reenlisted for a final period of active duty on 8 December 2008.

d. On 1 March 2009, Petitioner reported to ■■■■■■■■■■ for duty.

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e. On 11 February 2010, Petitioner received non-judicial punishment (NJP) for violation of a lawful general regulation, to wit: OPNAVINST 5370.2B, Para 5(c), Navy Fraternalization Policy, by wrongfully engaging in an unduly familiar relationship with a junior Sailor.

f. Consequently, Petitioner was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. Petitioner was informed that the least favorable characterization of service he may receive is Under Other Than Honorable (OTH) conditions. Petitioner was advised of and waived his procedural right to consult with counsel and to present his case to an administrative discharge board.

g. On 8 March 2010, the commanding officer (CO) recommended to the separation authority that Petitioner be administratively discharged from the Navy. The CO stated in pertinent part:

[Petitioner] admitted at Captain's Mast to having an inappropriate relationship with a junior Sailor in his division. He abused the authority given to him as a leader in his division, by starting a sexual relationship with a very junior Sailor who was subject to his orders and in his chain of command shortly after she checked onboard. His actions were prejudicial to good order and discipline and he has no potential for further naval service. I recommend that [Petitioner] be separated from the naval service with an Other Than Honorable discharge.

h. On 11 March 2010, the separation authority approved the recommendation and Petitioner was so discharged on 15 March 2010. Upon his discharge, he 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 12 September 2000 to 7 December 2008.

i. Petitioner contends the following injustices warranting relief:

(1) At the time of the incident, he was in his early 20's, experiencing a season of emotional and personal difficulty, including the death of a close family member and an unresolved sense of loss. Coupled with poor senior leadership, high operational tempo, and limited guidance, he struggled to adjust in a high stress environment. These factors influenced a lapse in judgment that ultimately led to his discharge for fraternization.

(2) His character of service discharge does not accurately reflect the entirety of his military service, nor the man he has become.

(3) He is not seeking to erase the past, but rather to bring it into full context; acknowledging both the mistakes he made and the growth that has followed.

j. As part of the Board's review, a qualified mental health professional reviewed Petitioner's contentions and the available records and provided the Board with enclosure (3). The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. He has provided no post-service medical evidence to support his

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claims. It is difficult to attribute abuse of a position of authority to undiagnosed mental health symptoms. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion that there is insufficient evidence of mental health concerns that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to mental health concerns."

## CONCLUSION

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

As previously discussed, the Board noted Petitioner has a period of Honorable service from 12 September 2000 to 7 December 2008 that was not annotated on his DD Form 214. Applicable regulations authorizes the language "Continuous Honorable Active Service" in Block 18 (Remarks) of the DD Form 214, when a service member has previously reenlisted without 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.

With regard to Petitioner's request for an upgrade of his discharge character of service, the Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with references (b) and (c).

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his misconduct. While the Board carefully considered Petitioner's contention for mitigation, the Board noted he 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 was properly separated for misconduct with an OTH characterization of service.

The Board also applied liberal consideration to Petitioner claim that he suffered from Post-Traumatic Stress Disorder (PTSD), and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Hagel Memo. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and the fact Petitioner provided no medical evidence in support of his claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which he discharged was excused or mitigated by his mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. Moreover, even if the Board assumed that Petitioner's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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In addition to applying liberal consideration to Petitioner's claimed mental health condition and its potential effect upon his conduct in accordance with the Hagel Memo, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, the totality of Petitioner's service, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, the negative effect his discharge has had on his life, his post-service record of accomplishments, his remorse, his service to your community, the character references he 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 all of the mitigating factors combined. In particular, the Board was troubled by Petitioner's abuse of power over a junior female Sailor, who was subject to his orders, by engaging in a sexual relationship with her. As Petitioner admitted in his statement to the CO at the time of his separation processing, his actions were not only unprofessional but "against everything [Petitioner] was taught not to do." The Board agreed and found Petitioner's corrosive conduct to be a complete disregard for military authority and regulations, which negatively affected the good order and discipline of the command. 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, while the Board commends Petitioner for his post-service efforts to rehabilitate his character, the Board did not find an upgrade of Petitioner's discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice.

#### 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 15 March 2010, correcting the Remarks Section, Block 18, by annotating "Continuous Honorable Active Service: 12 September 2000 to 7 December 2008."

That no further changes be made to Petitioner's record.

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

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

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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.

1/30/2026

