



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

■  
Docket No. 6390-25

Ref: Signature date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],  
USN, [REDACTED]

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.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 27 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 the case on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 9 April 1998. After a period of continuous Honorable service, Petitioner immediately reenlisted and commenced a second period of active duty on 8 November 2001.

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d. Unfortunately, the documents pertinent to Petitioner's administrative separation were not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The record shows, on 26 May 2004, the separation authority directed Petitioner's administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service for misconduct due to drug abuse. Petitioner was so discharged on 27 May 2004. Upon Petitioner's 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 9 April 1998 to 7 November 2001.

e. Petitioner contends the following injustices warranting relief:

(1) His single use of cocaine was a failed coping mechanism for his untreated PTSD and "morphea with coup de sabre" that was caused by a forced anthrax vaccine,

(2) He was coerced into receiving the anthrax vaccine under the threat of demotion, loss of housing, or to be discharged,

(3) [REDACTED] caused him severe disfigurement, hair loss, and pain,

(4) The Navy did not offer him any effective treatment with his misdiagnosis which left him isolated and emotionally broken,

(5) He faced combat related stress in the gulf, hazing from his peers over his appearance, and family pressures,

(6) His drug use was not willful misconduct but a desperate act amid untreated trauma, overseas hardship, and coercion from the vaccine mandate,

(7) His six plus years of service was exemplary, and

(8) His service was otherwise Honorable, and the misconduct was an isolated, trauma-induced lapse.

f. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which included his DD Form 149, personal statement, and health care documents.

g. 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 of a mental health condition or PTSD during his military service. He submitted evidence of a medical condition that is temporally remote to service. Furthermore, the evidence submitted does not contain any reference to his time in service and thus a nexus between evidence submitted and in-service

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misconduct cannot be achieved. 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 a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to any mental health condition or PTSD."

## 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 Petitioner has a period of Honorable service from 9 April 1998 to 7 November 2001 which is not documented 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 reached the following conclusions and denied his application for relief.

The Board initially concluded Petitioner was appropriately processed for administrative separation based on his drug abuse. 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.

Further, the Board applied liberal consideration to Petitioner's claim that he suffered from a mental health condition, 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's medical evidence is temporally remote to his service and contains no reference to Petitioner's time in service. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which Petitioner was 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.

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, Petitioner's need for

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veterans' benefits<sup>1</sup>, the non-violent nature of Petitioner's 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 mental health issues, 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 your 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. The Board also considered the negative effect Petitioner's misconduct had on the good order and discipline of his 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. In their opinion, it would also create an unwarranted and inaccurate assessment of Petitioner's period of service that could potentially undermine the integrity of the Navy's personnel system. Therefore, 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. Ultimately, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

#### 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 27 May 2004, with correction to the Remarks Section, Block 18, annotating "Continuous Honorable Active Service: 9 April 1998 to 7 November 2001."

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 having assured compliance with its provisions, it is hereby announced that the foregoing

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<sup>1</sup> The Board noted that Petitioner is likely eligible for Department of Veterans Affairs (VA) compensation and pension benefits based on his period of continuous Honorable service. However, the Board also noted that the VA remains the sole authority for determining eligibility for VA benefits. The Board recommended Petitioner contact the nearest VA office to inquire about his status in light of the Board's recommended change to his DD Form 214.

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/18/2026

