



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

■
Docket No. 7585-25
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) Title 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)

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. Enclosures (1) through (2) apply.

2. The Board, consisting of ■, ■, and ■, reviewed Petitioner's allegations of error and injustice on 13 March 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 included 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 U.S. Navy and began a period of active duty on 23 May 2002. After a period of continuous Honorable service, he immediately reenlisted and commenced another period of active duty on 13 April 2006.

d. On 17 October 2007, Petitioner was convicted of reckless driving by a civilian traffic court.

e. On 13 July 2009, Petitioner tested positive for marijuana and was consequently notified that he was being recommended for administrative discharge from the Navy by reason of

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[REDACTED], USN, XXX-XX-[REDACTED]

misconduct due to a civilian conviction and misconduct due to drug abuse. Petitioner elected to exercise his procedural rights to consult with legal counsel and requested a hearing before an administrative separation board (ADB).

f. On 22 October 2009, the ADB found Petitioner had committed misconduct due to drug abuse and civilian conviction. The ADB also determined Petitioner's drug abuse merited his separation with a General (under Honorable Conditions) (GEN) character of service.

g. Ultimately, the separation authority concurred with the ADB's recommendation and Petitioner was so discharged on 12 November 2009. 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 23 May 2002 to 12 April 2006.

h. Petitioner contends he unknowingly ingested a prohibited substance while consuming a local beverage (Atemuda) in [REDACTED]. He argues that the Atemuda was laced with cannabis and that he had no intent to violate Navy policy. He further contends that, since his discharge, he has maintained 13 years of continuous federal service and successfully passing all background checks and security clearances.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's record warrants partial relief. Specifically, as discussed above, the Board determined Petitioner's DD Form 214 fails to document his continuous Honorable service from 23 May 2002 to 12 April 2006 and requires correction.

Notwithstanding the below recommended corrective action, the Board concluded insufficient evidence exists to support Petitioner's request for an upgrade in characterization of service.

The Board initially concluded Petitioner was appropriately discharged with a GEN based on his record of misconduct. While the Board carefully considered Petitioner's contention that he unknowingly ingested a prohibited substance while on leave, the Board was unpersuaded by Petitioner's contention based on a lack of evidence to substantiate he was on leave in [REDACTED], that he consumed the beverage in question, or that the beverage in question actually contained cannabis. The Board found Petitioner's evidence to be wholly insufficient to meet the preponderance of evidence standard that he innocently ingested marijuana. In making this finding, the Board also took into consideration Petitioner's questionable behavior just prior to his scheduled urinalysis. Therefore, the Board determined the presumption of regularity applies to the ADB's drug abuse finding, Petitioner's administrative separation, and his assigned characterization of service. Thus, the Board found no error exists with Petitioner's record.

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 desire for an upgrade to his characterization of service, his contentions, the totality of his service, the non-violent nature of

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his misconduct, his relative youth and immaturity at the time of your misconduct, his rehabilitation efforts, his post-service record of accomplishments, the evidence he provided in support of his application, 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 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 found that Petitioner's conduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given an opportunity to correct his conduct deficiencies after his civilian conviction but chose to continue to commit misconduct, which led to his GEN discharge. Petitioner's conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Therefore, even taking into consideration all the mitigation factors in Petitioner's case, including his post-service accomplishments, the Board found that his misconduct while on active duty outweighed the mitigation evidence offered.

Finally, the Board considered that, based on Petitioner's DUI and drug abuse misconduct, his record would normally result in an Other Than Honorable discharge. Thus, the Board determined that Petitioner already received significant clemency from the Navy when it approved the GEN characterization of service. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's misconduct led them to conclude that his service was not Honorable. Therefore, the Board did not find an upgrade of Petitioner's discharge to Honorable to be warranted in the interests of justice.

RECOMMENDATION:

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

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215), for the period ending 12 November 2009, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE ACTIVE SERVICE FROM 20020523 UNTIL 20060412."

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

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having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

3/30/2026

[REDACTED]

Executive Director

Signed by: [REDACTED]