



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

██████████
Docket No. 7837-25
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 w/ enclosures

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 that his discharge be upgraded, that his narrative reason for separation and separation code be changed to Secretarial Authority. Enclosure (1) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 1 May 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 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 Petitioner's application 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 4 September 1990. He deployed in support of ██████████ from 15 April 1991 through 14 July 1991.

d. On 31 January 1992, Petitioner was convicted by civilian authorities for being a minor in possession of and/or consuming alcohol, for which he paid a \$100 fine.

e. On 12 December 1992, Petitioner received his first nonjudicial punishment (NJP) for violating Article 92, Uniform Code of Military Justice (UCMJ), for failure to obey a lawful general regulation by wrongfully engaging in gambling activity aboard the ship. He was also

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issued administrative counseling warning him that further misconduct could result in adverse administrative action.

f. On 19 July 1993, Petitioner received his second NJP for multiple UCMJ violations, to include: Article 92, for violating a lawful general regulation by wrongfully possessing ammunition, Article 117, for wrongfully using provoking words towards a shipmate, Article 128, for unlawfully striking a shipmate, and Article 134, for defrauding the telephone company by falsely pretending to have an authorized calling card number and by wrongfully obtaining long distance telephone service.

g. Petitioner was notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct and due to commission of a serious offense (COSO). After consulting legal counsel, he elected to voluntarily waive his right to a hearing before an administrative discharge board. The Chief of Naval Personnel approved Petitioner's discharge under Other Than Honorable (OTH) conditions for the primary basis of separation of COSO and Petitioner was so discharged on 2 September 1993.

h. Petitioner previously applied to the Naval Discharge Review Board (NDRB) contending that he was unjustly discharged because of circumstances beyond his control, a shipmate told him he could use the calling card, he did not find out it was stolen until he was questioned later during an investigation, he apologized to the person from whom the card was stolen and paid the bill, the ammunition was a .22 caliber gun clip which had been found underneath his standup locker and did not belong to him, his provoking words were due to being treated as a racial statement although he was talking to a member of his own race, and the assault charge occurred due to another sailor who provoked a fight after threatening him and forcing him to commit self-defense when he had bumped into the girl he was dancing with at a club. He also contended that no one was allowed to speak on his behalf at his NJP.

i. In his application to this Board, Petitioner contends that his discharge is both a material error in the application of discretionary judgment and a material injustice due to the stigmatizing nature of his OTH characterization of service. He argues that, although the underlying offenses were numerous, he committed low-level misconduct involving poor judgment, immaturity, and isolated incidents in a high stress environment, none of which were worthy of court-martial proceedings. He notes that he had nearly completed his enlistment prior to his administrative discharge and had served honorably in a combat zone. He believes that the clemency factors outlined in reference (b) support the requested relief based on youthful indiscretion, mitigating factors, candor, severity of misconduct, post-service conduct, and his character and reputation. His personal statement provided additional context regarding his NJP offenses, some of which reiterated his NDRB contentions and some of which provided alternate circumstances. In addition to this statement and his legal counsel's brief, he submitted eight character letters.

CONCLUSION:

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

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The Board initially concluded Petitioner was appropriately processed for administrative separation based on his record of misconduct. Despite Petitioner's contentions of innocence, the Board was not persuaded since he failed to provide any evidence, other than his statement, to substantiate his allegations of error. Therefore, the Board determined the presumption of regularity applies to Petitioner's OTH and no error exists with his 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 and change his reason for separation, Petitioner's contentions including his explanations regarding the circumstances of his NJPs, the totality of Petitioner's service to include service highlights, Petitioner's relative youth and immaturity at the time of his/her 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 service to his community, the character references Petitioner provided for review, and the passage of time since Petitioner's discharge.

The Board found that the mitigating factors were sufficient to justify equitable relief. Specifically, the Board observed that Petitioner's numerous character letters attest to his reputation within his community, his post-service accomplishments which, in conjunction with his youth and immaturity at the time of his misconduct, his overall record of honorable service for three years, and the relative severity of his offenses, demonstrated sufficient rehabilitation to support the recommended relief. As a result, the Board found that the favorable factors Petitioner submitted for consideration of clemency based on his post-service character outweighed the misconduct evidenced by his civilian conviction and two NJPs. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief as well as additional relief in the change to Petitioner's reentry code.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending on 2 September 1993, he was discharged with an "Honorable" characterization of service, separation authority of "MILPERSMAN 3630900," narrative reason for separation of "Secretarial Authority," separation code of "JFF"; and reentry code of "RE-1J." That all other information currently listed on Petitioner's DD Form 214 remains the same.

That Petitioner be issued an Honorable Discharge certificate.

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

A copy of this report of proceedings be filed in Petitioner's naval record.

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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.

5/28/2026

