

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

f. On 18 March 1999, he received an additional NJP for wrongful use of cocaine. Consequently, Petitioner was notified of pending administrative separation action by reason of misconduct due to pattern of misconduct, commission of a serious offense, and drug abuse. After electing to waive his rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation for the basis of drug abuse and Petitioner was so discharged on 15 July 1999.

d. At the time of his discharge, Petitioner received a Certificate of Release or Discharge from Active Duty (DD Form 214) that failed to document his period of continuous Honorable service from 17 March 1993 to 30 June 1997.

e. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 29 November 2011, the NDRB denied his request after determining his discharge was proper as issued.

f. Petitioner contend his OTH discharge is preventing him from getting employment, years have passed since his discharge, and he thought his discharge would be automatically upgraded after three years. Petitioner also checked the "PTSD" box on his application but chose not to respond to the Board's request for supporting evidence of his claim¹. For purposes of clemency and equity consideration, the Board considered the totality of Petitioner's application; which consisted solely of his DD Form 149 without any other additional documentation.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded Petitioner's request merits partial relief. Specifically, as discussed previously, Petitioner's DD Form 214 does not annotate his first period of continuous Honorable service and requires correction.

Regarding Petitioner's request to upgrade his characterization of service, the Board determined no additional 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 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 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

¹ Therefore, the Board did not consider Petitioner application under the guidance provided in the Kurta and Hagel memos.

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Petitioner's discharge has had on his life, your rehabilitation efforts, your post-service record of accomplishments, and the passage of time since your 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 found that Petitioner's conduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct, which led to his OTH 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. Additionally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. While the Board considered the length of time since Petitioner's misconduct, they determined the severity of his misconduct outweighed any mitigation resulting from it. Finally, 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 age and possible need for benefits and other opportunities that come with a favorable discharge characterization of service, they again determined the severity of Petitioner's misconduct outweighed any mitigation resulting from those factors.

Accordingly, given the totality of the circumstances, the Board determined that Petitioner's request to upgrade his discharge does not merit relief.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action:

That Petitioner be issued a "Correction to DD Form 214, Certificate of Release or Discharge from Active Duty" (DD Form 215), for the period ending 15 July 1999, to reflect the following comment added to the Block 18 Remarks section:

"CONTINUOUS HONORABLE SERVICE FROM [REDACTED]"

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 Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing

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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.

2/26/2026

