



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

REC .
Docket No: 00436-12
25 October 2012

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) SECNAVINST 1910.4B
(c) 10 U.S.C. 654 (Repeal)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his undesirable characterization of service issued 27 April 1962, be upgraded.

2. The Board, consisting of Mr. Zsalman, Mr. Exnicios, and Ms. Guill, reviewed Petitioner's allegations of error and injustice on 24 October 2012 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

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 waive the statute of limitations and review the application on its merits.

c. Petitioner was enlisted in the Navy and began a period of active duty on 25 August 1960. He was not the subject of any disciplinary action. He served without incident until 11 April 1962, when he made an admission of homosexuality. Subsequently, he was administratively processed for unfitness (homosexual admission). His commanding officer forwarded his case and the separation authority directed an undesirable discharge. He was so discharged on 27 April 1962.

d. Reference (b) sets forth the Department of the Navy's policies, standards, and procedures for administratively separating service members due to homosexuality. Reference (c) sets forth the Department of the Navy's policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It also provides service discharge review boards with the authority to grant requests to change the narrative reason for discharge to "Secretarial Authority" when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct. The appropriate separation code for Secretarial Authority is FFF.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of reference (c), the Board concludes that Petitioner's request warrants favorable action in the form of relief.

The Board concludes that based upon his overall record of service and the Navy's policy as established in reference (c), that relief in the form of his characterization of service "undesirable" be changed to "honorable".

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the characterization of service as "undesirable", be changed to "honorable".

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a

confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) 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.



BRIAN J. GEORGE
Acting Recorder

ROBERT D. ZSALMAN
Recorder

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.



ROBERT D ZSALMAN
Acting Executive director

Copy to: DFAS