



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

SJN
Docket No: 06537-12
6 July 2012

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) 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 Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his characterization of service "conditions other than honorable" be changed per reference (b). He also impliedly requested that his narrative reason for separation and reenlistment code be changed per reference (b).

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and Exnicios, reviewed Petitioner's allegations of error and injustice on 3 July 2012 and, pursuant to its regulations, determined that the limited 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 enlisted in the Marine Corps and began a period of active duty on 15 December 1959. On 15 July 1960, he made a statement admitting to participating in homosexual acts. Subsequently, he was administratively processed for separation by reason of homosexuality due to his own admission. His commanding

officer forwarded his case and the separation authority directed an other than honorable discharge due to convenience of the government by reason of homosexual conduct. He was so discharged on 23 September 1960.

d. The Board found that available records indicate that his conduct average was 2.8., high enough under normal circumstances to warrant a general characterization of service. At that time, an average of 4.0 in conduct was required for an honorable discharge.

e. Reference (b) sets forth the Department of the Navy's current 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 provides service Discharge Review Boards with the authority to grant requests to re-characterize the discharge to honorable, change the narrative reason for discharge to "secretarial authority", separation program designator (SPD) code to "JFF" and reenlistment code to an immediately eligible to reenter category of "RE-1J", 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.

CONCLUSION:

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

The Board concludes that based upon his record of service and current Department of the Navy policy as established in reference (b), that partial relief in the form of his narrative reason for separation be changed to "secretarial authority", he be assigned a "RE-1J" reenlistment code, and that his characterization of service be changed to general.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge on 23 September 1960, the narrative reason for separation was "secretarial authority", he be assigned an "RE-1J" reenlistment code.

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 18 June 2012.

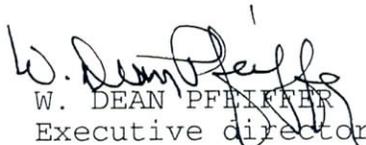
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



ROBERT D. ZSALMAN
Recorder

BRIAN J. GEORGE
Acting 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.



W. DEAN PFEIFFER
Executive director