



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

BJG  
Docket No: 11137-12  
4 December 2012

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] (RECONSIDERATION)

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) BCNR dec doc BJG, docket #: 13989-90 dtd 16 Apr 92  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his general characterization of service discharge issued on 4 December 1987 due to "Homosexuality" be upgraded to a fully honorable characterization of service. He also requested that his separation code "GRA" (Homosexuality) be changed to "JFF" (Secretarial Authority), that his reentry code of RE-4 (Not Recommended for Retention) be changed to RE-1J (Recommended for Retention), and that his narrative reason for separation be changed to "Secretarial Authority" per reference (b). On 2 June 1992, this Board upgraded his original other than honorable (OTH) characterization of service to general, because it found that he had an otherwise unblemished service record and concluded the discharge characterization was too harsh (enclosure (2)).

2. The Board, consisting of Messrs. Bourgeois, Dixit and Whalen, reviewed Petitioner's allegations of error and injustice on 4 December 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 reenlisted in the Navy on 8 July 1985 after serving more than four years of prior honorable service. He was not the subject of any disciplinary action during his final enlistment.

d. During April 1987, the Naval Investigative Service began investigating Petitioner, who was serving as an AG2 (pay grade E-5), for alleged homosexual acts with another male Sailor serving as an AG3 (pay grade E-4). The investigation was prompted by Petitioner's former male roommate, an AG2, coming forward after witnessing Petitioner and the AG3 in homosexual conduct in their barracks room.

e. On 10 August 1987, Petitioner was notified that he was being administratively separated due to homosexuality. He chose to have his case heard by an administrative discharge board (ADB). The ADB recommended that he be discharged with an OTH characterization of service due to homosexuality. The discharge authority concurred with the ADB's recommendation, and on 4 December 1987, he was discharged with an OTH characterization of service due to homosexuality and assigned an RE-4 reentry code. On 2 June 1992, this Board upgraded his OTH characterization of service to general.

f. 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. Aggravating circumstances may include a service member engaging in a homosexual act with a subordinate in a situation that violates customary superior-subordinate relationships, and in a location subject to naval control that has an adverse impact on

discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

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 partial favorable action in the form of relief.

The Board finds there were aggravating factors in Petitioner's homosexual act in that it occurred with a subordinate in his barracks room, which was witnessed by his roommate. Based on this aggravation, the Board finds no basis to upgrade his general characterization of service. However, in light of the repeal of "Don't ask, don't tell", the Board finds that his separation code should be changed to "JFF", his reentry code should be changed to "RE-1J", and his narrative reason for separation should be changed to "Secretarial Authority". In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing his separation code to "JFF" vice "GRA", his narrative reason for separation to "Secretarial Authority" vice "Homosexuality", and his reentry code to "RE-1J" vice "RE-4" on 4 December 1987, all now of record.

b. That this Report of Proceedings not be filed in Petitioner's record.

c. That no further relief be granted.

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 17 October 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