



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

SJN
Docket No: 11298-12
6 December 2012

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

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

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)

Encl: (1) DD Form 149 with attachments
(2) BCNR Dec Doc CRS docket No: 11228-7 dtd 2 Dec 08
(3) Case summary
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former officer of the Navy, filed enclosure (1) with this Board requesting, in effect, that his narrative reason for separation "homosexual admission", separation program designator (SPD) "GRB" (homosexual admission) and reentry code be changed per reference (b). Additionally, he requested that recoupment efforts regarding his Reserve Officer Training Corps (ROTC) education tuition stop, and any funds paid be refunded as a result of his discharge. This case was originally denied on 8 October 2008 (enclosure(2)).

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and Exnicios, 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 enlisted in the Navy and was commissioned as an officer on 9 May 2004. On 12 September 2006, he submitted a written statement admitting to being a homosexual. 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 honorable discharge due to convenience of the government by reason of homosexual admission. He was so discharged on 21 September 2007. At that time he was not assigned a reentry code due to the fact that commissioned officers are not assigned them unlike enlisted members of the naval service. Additionally, recoupment efforts of ROTC education tuition assistance funds commenced.

d. 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 change the narrative reason for discharge to "secretarial authority", separation program designator (SPD) code to "JFF", to re-characterize the discharge to honorable and/or request to change the reentry 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 action in the form of partial 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" and SPD be changed to "JFF". With regard to stopping the recoupment of his ROTC tuition assistance as a result of his discharge, the Board found it to be inappropriate. In light of the Board's relief, he may again serve in the Navy and not be required to repay the tuition. According, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his narrative reason for separation was "secretarial authority" vice "homosexual admission" and that his SPD code be changed to "JFF" vice "GRB". If he wishes to re-affiliate, or be reinstated in the Navy, he should contact the Navy Recruiting Command via his nearest recruiting facility.

b. That no further relief be granted.

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

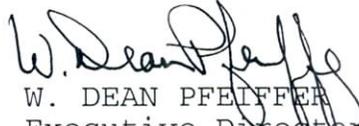
d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 7 October 2012.

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