



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

SJN  
Docket No: 5406-13  
24 June 2014

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
[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 Navy, filed enclosure (1) with this Board requesting, in effect, that his other than honorable (OTH) discharge due to unfitness (homosexual acts) on 27 February 1970 be changed per reference (b). He also impliedly requested that his reason for separation (BUPERS MANUAL 3420220 CODE 253) and "RE-4" (not recommended for retention) reenlistment code be changed.

2. The Board, consisting of Messrs. Dixit and Zsalman, and Ms. Davis, reviewed Petitioner's allegations of error and injustice on 17 June 2014 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 enlisted in the Navy and began a period of active duty on 27 September 1967. On 27 January 1970, he made a statement admitting to his involvement in homosexual acts onboard his ship. Subsequently, he was administratively processed for separation by reason of homosexual admission. His commanding

officer forwarded his case and the separation authority directed an OTH discharge due to unfitness by reason of homosexual acts. He was so discharged on 27 February 1970. At that time he was assigned an RE-4 reenlistment code.

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", to re-characterize the discharge to general 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 relief.

Although the Board recognizes Petitioner's participation in homosexual activities occurred aboard ship, and as such is an aggravating factor, it concludes that based upon his overall record of service and current Department of the Navy policy as established in reference (b), that relief in the form of recharacterization is appropriate. The Board further concludes that a general discharge is warranted in this case due to the presence of an aggravating factor, that his narrative reason and authority for separation be changed to "secretarial authority" and reentry code be changed to "RE-1J". Additionally, the reason and authority should be changed to read "MILPERSMAN". In view of the above, the Board directs the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received a general discharge vice OTH discharge on 27 February 1970, the reason and authority for separation was "secretarial authority BUPERS MANUAL" vice "BUPERS MANUAL 3420220 CODE 253", and that he was issued an "RE-1J" vice "RE-4" reentry code. Additionally, that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

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

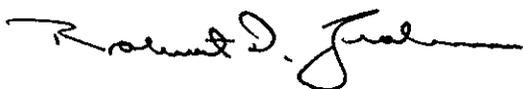
c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 17 May 2013.

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.

  
ROBERT D. ZSALMAN  
Acting Executive director