



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 01264-14
24 April 2014

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

Subj: [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 separation program designator (SPD) "HKC", narrative reason for separation "homosexual acts" and RE-4 (not recommended for retention) reenlistment code be changed per reference (b). He also impliedly requested that the separation authority "BUPERSMAN 3420185" be changed.

2. The Board, consisting of Messrs. Zsalman and Exnicios and Ms. Montgomery, reviewed Petitioner's allegations of error and injustice on 22 April 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. Petitioner enlisted in the Navy and began a period of active duty on 27 January 1978. On 19 January 1979, he received nonjudicial punishment (NJP) for wrongful possession and use of lysergic acid diethylamide (LSD) and wrongful use of marijuana. Administrative discharge action began based on his wrongful possession and use of drugs. After being afforded all of his procedural rights, his commanding officer forwarded his case stating, in part, that he had no previous record of disciplinary

action and had maintained a positive attitude toward the military. He recommended that he be retained dependent upon successful completion of counseling. On 26 January 1979 the separation authority directed that he be retained on active duty. On 12 February 1979, he submitted a statement admitting to participating in homosexual acts. A command investigation was conducted and 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. He was so discharged on 23 March 1979. At that time he was assigned an RE-4 reenlistment code.

c. 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", and 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.

The Board concludes that based upon his overall record of service, to include his NJP for wrongful drug use, which he was retained and given an opportunity earn a better characterization of service, and current Department of the Navy policy as established in reference (b), that relief in the form of his narrative reason for separation be changed to "secretarial authority", SPD be changed to "JFF", reentry code be changed to "RE-1J", and the separation authority be changed to "BUPERSMAN". In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the narrative reason for separation was "secretarial authority", vice "homosexual acts", that his SPD code be changed to "JFF" vice "HKC", that he was issued an "RE-1J" vice an "RE-4" reenlistment code, and separation authority be changed to "BUPERSMAN", effective 23 March 1979. Additionally, the issuance

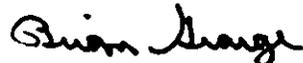
of a new Certificate of Release or Discharge from Active Duty (DD Form 214) is directed.

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

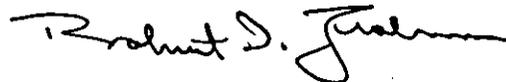
c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 6 November 2013.

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