



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

TAL
Docket No: 1605-14
11 March 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC,
XXX-XX-[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 other than honorable (OTH) discharge issued on 8 August 1958, due to unfitness be upgraded to a general under honorable conditions discharge. By implication, he further requested that his narrative reason for separation (Unfitness) be changed to "Secretarial Authority".

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 25 February 2015 and, pursuant to its regulations, determined that the partial 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 8 February 1956. He served for a year and one month without disciplinary incident, but on 18 April 1957, he was convicted by special court-martial of wrongful appropriation of government property.

d. On 10 April 1958, Petitioner, while being investigated by the Provost Marshal, made a verbal and written admission of involvement in homosexual activities with a civilian. Subsequently, he made a written request for discharge for the good of service to avoid trial by court-martial and was separated by reason of unfitness (homosexuality). His commanding officer forwarded his case and the separation authority directed an OTH discharge due to unfitness. He was so discharged on 8 August 1958.

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, to change the narrative reason for discharge to "Secretarial Authority", the Separation Program Designator (SPD) code to "JFF-1" and to change the reentry code to an immediately eligible 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 partial favorable action.

The Board concludes that based upon his record of service and current Department of the Navy policy as established in reference (b), the relief in the form of his characterization of service be changed to a general under honorable conditions in this case given his record of one SPCM. The narrative reason should be changed to "Secretarial Authority", SPD be changed to "JFF-1, and reentry code be changed to "RE-1J". In view of the above, the Board directs the following partial corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his characterization of service be upgraded to general under honorable condition vice OTH, and his narrative reason for separation was "Secretarial Authority" vice "Unfitness", that his SPC code is "JFF-1", and he was issued an "RE-1J" reentry code on

8 August 1958. Additionally, that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

a. That no further relief be granted.

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 13 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.



T. J. REED
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 J. O'NEILL
Executive Director