



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

SJN

Docket No: 4776-14

11 December 2014

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USN,
[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 be changed to honorable, and that the reason and authority "ART. C-10312" (misconduct) be changed per reference (b).

2. The Board, consisting of Mr. Hedrick, Mr. Lippolis, and Ms. Wilcher, reviewed Petitioner's allegations of error and injustice on 9 December 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. On 2 July 1958, Petitioner reenlisted in the Navy after serving over three years of prior satisfactory service. On 1 March 1959, he submitted a sworn statement regarding his participating in homosexual acts. Subsequently, administrative discharge action was initiated and it was recommended that he receive an OTH discharge by reason of misconduct due to

homosexual conduct. After being afforded all of his procedural rights, his case was forwarded to, and approved by the separation authority. On 27 March 1959, he received an OTH discharge.

d. Characterization of service is based in part on conduct averages computed from marks assigned on a periodic basis. His conduct average was 3.4. At the time of his service, a conduct average of 3.0 was required for a fully honorable characterization of service.

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 request to recharacterize the discharge to general or honorable and 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.

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 relief.

The Board 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 his narrative reason for separation be changed to "secretarial authority", his characterization of service be changed to honorable based upon his overall 3.4 trait average in conduct, and the separation authority to "MILPERSMAN". In view of the above, the Board directs the following corrective action.

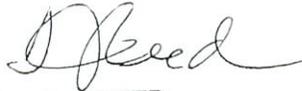
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 27 March 1959, the separation authority was "MILPERSMAN," that the narrative reason for separation was "secretarial authority" vice "ART. C-10312", and that he received an honorable discharge. It is also directed 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 7 March 2014.

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