



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

MTN
Docket No: 7180-14
21 July 2015

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

Subj: REVIEW NAVAL RECORD OF 5 U.S.C 552(b) (6) USN
XXX-XX 5 U.S.C
552(b) (6)

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 discharge "under other than honorable conditions" be changed per reference (b). He also impliedly requested that his "RE-4" (not recommended for retention) reentry code be changed per reference (b). Additionally, that the reason and authority "ARTICLE C-10311, BuPers Manual, Code 253," be changed.

2. The Board, consisting of 5 U.S.C 552(b) (6) reviewed Petitioner's allegations of error and injustice on 17 July 2015 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 15 June 1954. He reenlisted on 6 May 1958 and then again on 1 May 1964, serving over 9 years and 10 months of satisfactory service. On 16 March 1967, he requested an undesirable discharge for the good

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of the service and to escape trial by court-martial for his homosexual conduct. As a result of the foregoing, administrative discharge action was initiated and it was recommended that he receive the least personally damaging form of discharge by reason of homosexuality. After being afforded all of his procedural rights, he received an other than honorable discharge on 11 April 1967. At that time, he was assigned an RE-4 reenlistment code. Additionally, his characterization of service should have been based on his overall record of service to include his individual conduct average computed from marks assigned on a periodic basis. His conduct average was 3.9. At the time of his service, an average of 3.0 was required for a fully honorable characterization of service.

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 request to change the narrative reason for discharge to "secretarial authority," SPD code to "JFF," re-characterized the discharge to honorable, and reenlistment code to "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 relief.

In this regard, the Board notes Petitioner's overall record of military service, conduct average, and current Department of the Navy policy as established in reference (b), that relief in the form of her characterization of service be changed to honorable based on his overall individual conduct average, SPD code be changed to "JFF," reenlistment code be changed to "RE-1J," and the narrative reason for separation be changed to "secretarial authority,". Additionally, that the separation authority be changed to read "MILPERSMSN 1910-164." 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 an "honorable discharge" by reason of "secretarial authority" on 11 April 1967, was assigned SPD code "JFF," and "RE-1J" reentry code. Additionally, the separation authority was "MILPERSMAN 1910-164." It is further directed that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

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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 2 June 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.

5 U.S.C 552(b) (6)

S. J. NEAL
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.

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL
Executive director