



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

[REDACTED]
Docket No: 3090-16

OCT 06 2016

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USN,
XXX-XX- [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 and attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former commissioned officer of the Navy, filed enclosure (1) with this Board requesting that the characterization of service "under honorable conditions" be changed per reference (b). He impliedly requested that the reason and authority for separation "SECNAV ltr Pers B1511-sjw-s of 8 JAN 63 - 55K" be changed.

2. The Petitioner's application was initially considered by a panel of the Board on 13 May 2016, and that panel granted partial relief. Specifically, his narrative reason for separation and the separation authority. However, prior to publication of the decision, additional mitigating information that was not available to the earlier Board was identified. The application was subsequently referred to a new panel for reconsideration. That panel of the Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 July 2016, and pursuant to its regulations, determined that additional 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 was commissioned in the Navy and began a period of active duty on 7 June 1961. On 5 June 1962, the Chief of Naval Personnel (CNP) requested an investigation to resolve homosexual allegations after Petitioner was observed under circumstances "strongly suggesting homosexual conduct." On 10 December 1962, Petitioner submitted a letter requesting resignation from the U.S. Naval Service. On 20 December 1962, a Board of Officers convened to consider Petitioner's case and reported its findings, opinions, and recommendation in a letter dated 27 December 1962. The Board of Officers reported its opinion that Petitioner had engaged in homosexual activity while member of the U.S. Navy. Based on voluntary sworn statements, Petitioner engaged in homosexual activity in his bachelor officer quarters (BOQ) room at U.S. Naval Station, [REDACTED]. The Board further recommended that Petitioner be discharged from Naval service.

d. Petitioner resigned his commission effective 22 January 1963.

e. Petitioner denies being a homosexual and contends that he only requested resignation after being threatened with court-martial, dishonorable discharge, and possibly prison. He stated that he was told his career was essentially over, even if he were found not guilty at court-martial. Additionally, he contends that his characterization of service, based solely on his service record, under today's policy on homosexuality, would warrant an Honorable discharge.

f. Reference (c) sets forth the Department of the Defense'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 guidance to grant requests to change the narrative reason for discharge to "secretarial authority," SPD code to "JFF," re-characterize 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 references (b) and (c), the Board concludes that the Petitioner's request warrants favorable action in the form of relief. In this regard, his characterization of service shall be changed to "honorable." Additionally, the narrative reason for separation changed to "secretarial authority," and the separation authority changed to read "MILPERSMAN 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, on 22 January 1963, his characterization of service was "honorable," the narrative reason for separation was "secretarial authority," and that he was assigned SPD code "JFF." Additionally, that the separation authority was "MILPERSMAN 1910-164."

b. That Petitioner be issued a new Certificate of Release or Discharge From Active Duty (DD Form 214).

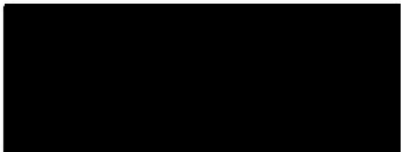
c. That a copy of this report of proceedings be filed in Petitioner's naval record.

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 6 April 2016.

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.


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.


Executive Director