



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

█
Docket No: 3700-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER, █
[PRESENTLY █ USN, XXX-XX-█

Ref: (a) 10 U.S.C. § 1552
(b) USD Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 with attachments
(2) DD Form 214
(3) Report of Mental Health Evaluation, 11 Feb 04
(4) Administrative Separation Processing Notice – Notification Procedure, 24 Feb 04
(5) DON Center for Cryptology CO Memo, subj: Administrative Discharge ICO [Petitioner], 18 Mar 04
(6) Order Granting Leave to Change Name, *In the matter of the Application of [Petitioner] For Leave to Change His/Her/Their Name(s) to [█]*, Civil Court of the City of █
(7) NDRB Discharge Review Decisional Document, Docket No. ND09-01197

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting changes to her narrative reason for separation, separation code and reentry code, and that her name be changed in her official military record.

2. The Board reviewed Petitioner's allegations of error or injustice on 5 February 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. For the reasons discussed below, I disagree with the Majority and recommend that you approve the Minority recommendation. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include reference (b).

3. The Board, having reviewed all of the facts of record pertaining to Petitioner's allegations of error or 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.

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

b. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review Petitioner's application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty service on 15 May 2001. See enclosure (2).

d. On 11 February 2004, Petitioner was diagnosed with borderline personality disorder. The examining clinical psychologist stated that this diagnosis "represents a chronic, deeply ingrained, maladaptive pattern of behavior" and that it "is of such severity that it impairs the ability of [Petitioner] to function effectively in a military environment." The examining psychologist recommended that Petitioner be administratively separated from the Navy in accordance with MILPERSMAN 1910-122. See enclosure (3).

e. On 24 February 2004, Petitioner was notified that she was being processed for administrative discharge by reason of personality disorder in accordance with MILPERSMAN 1910-122. Petitioner waived her right to consult with counsel and to submit statements for consideration by the separation authority. See enclosure (4).

f. By memorandum dated 18 March 2004, the separation authority directed that Petitioner be discharged for the convenience of the government due to a personality disorder with a general (under honorable conditions) characterization of service. See enclosure (5).

g. On 9 April 2004, Petitioner was discharged from the Navy for the convenience of the government due to a personality disorder with a general (under honorable conditions) characterization of service. The separation authority cited for her discharge was MILPERSMAN 1910-122, and her reentry code was RE-4. See enclosure (2).

h. On 11 June 2007, the Civil Court of the City of [REDACTED] ordered Petitioner's legal name changed from that which appears on her DD Form 214 to that reflected as her current name in the subject line of this record of proceedings. See enclosure (6).

i. On 27 January 2010, the Naval Discharge Review Board (NDRB) unanimously voted that Petitioner's characterization of service shall be upgraded to honorable, and that the narrative reason for her separation shall remain "Personality Disorder." The NDRB decision document reflects that Petitioner requested a change to her reentry code to enable her to reenlist in the Armed Forces, but that the NDRB lacked the authority to grant this change. See enclosure (7).

j. Petitioner contends that her narrative reason for separation, separation code, and reentry code were erroneously assigned and unjust, as the Department of Defense has since recognized the importance of supporting the mental health and well-being of service members. She further contends that "[i]f support systems had been in place for female service members, [she] would have remained on active duty." As evidence that she would have been able to overcome her challenges with support, she cites her own post-service accomplishments such as her completion of higher education and pending graduation (at the time of her application) with a Masters of Science in Information Technology Management. See enclosure (1).

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

MAJORITY CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Majority of the Board determined that Petitioner's application warrants partial relief.

The Majority did not agree with Petitioner's assertion that the assignment of her narrative reason for separation, separation authority, separation code, or reentry code constituted an error, as they were appropriately assigned at the time. However, the Majority did find that her narrative reason for separation, separation authority, and separation code currently constitutes an injustice in that they may result in unwarranted adverse consequences or negative implications for Petitioner. Accordingly, the Majority determined that Petitioner's narrative reason for separation, separation authority, and separation code should be changed to reflect that Petitioner was separated under "Secretarial Authority."

The Majority did not, however, find any error or injustice in Petitioner's reentry code. Even recognizing the potential for negative implications arising from an RE-4 reentry code, the Majority concluded that this code was appropriately assigned and that any potential negative implications arising from it are outweighed by the purpose served by this code.

Finally, the Majority noted that Petitioner has provided evidence (enclosure (6) and her driver's license) supporting her request to change her name on her naval records. Accordingly, the Majority determined that Petitioner's name should be changed on her DD Form 214 to that reflected in enclosure (6) in the interests of justice.

MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a new DD Form 214 with her current name as reflected in the subject line of this document; that the narrative reason for her separation was "Secretarial Authority"; that her separation authority was MILPERSMAN 1910-164"; and that her separation code was "JFF."

That no further changes be made to Petitioner's naval record.

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

MINORITY CONCLUSION:

Upon review and consideration of all of the evidence of record, the Minority of the Board also determined that that Petitioner's application warrants partial relief.

The Minority concurred with the Majority conclusions regarding Petitioner's request to change the narrative reason for her separation, her separation authority and code, and her reentry code.

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

The Minority disagreed with the Majority, however, regarding Petitioner's request to change her name on her DD Form 214. Contrary to the Majority, the Minority found that Petitioner's name was accurate at the time that it was placed on her records and that there is no injustice in Petitioner using her court order to prove that she is person reflected in her naval records. Accordingly, the Minority determined that Petitioner's name should not be changed in her naval record as requested.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a new DD Form 214 reflecting that the narrative reason for her separation was "Secretarial Authority"; that her separation authority was MILPERSMAN 1910-164"; and that her separation code was "JFF."

That no further changes be made to Petitioner's naval record.

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

EXECUTIVE DIRECTOR'S CONCLUSION:

I do not agree with the Majority recommendation regarding Petitioner's request to change her name on her DD Form 214, and recommend that you approve the Minority recommendation.

There is no evidence that Petitioner's name was erroneous at the time her records were created. Additionally, there is no evidence or reason to believe that retaining Petitioner's former name in her records will cause her any hardship or injustice. The Board's well-established precedent is to grant name change requests only when the name to be changed presents a hardship under the circumstances. For example, the Board routinely grants requests to change names on official records when a name change subsequent to naval service would require an applicant to reveal potentially embarrassing or discriminatory information in order to associate their current name with their naval record (e.g., transgender name changes), but routinely denies name change requests based upon marriage or court-ordered name changes. The latter simply does not present a hardship or injustice for the applicant to prove that they are the person described in the record. The Majority's recommendation in this regard represents a departure from the Board's precedent which could call into question all of the Board's previous name change denials. Seeing no justification for such a departure, I recommend that Petitioner's name change request be denied.

EXECUTIVE DIRECTOR RECOMMENDATION:

In view of the above, I recommend that you approve the Minority's recommendations in all regards.

4. 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 titled matter.

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

5. The foregoing action of the Board is submitted for your review and action.

4/5/2021

[REDACTED]

Executive Director

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

[REDACTED]

MINORITY/EXECUTIVE DIRECTOR Recommendation Approved (Change to Secretarial Authority; Deny Name and Reentry Code Change)

[REDACTED]

[REDACTED]

4/29/2021

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]