



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

█
Docket No: 1649-21

Ref: Signature Date

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

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

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

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 with attachments
(2) Case Summary

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, that his character of service be changed. Implicit in this request is that changes also be made to Petitioner's narrative reason for separation indicated on Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 14 April 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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.

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

c. Petitioner enlisted in the Navy and began a period of active duty on 2 November 1966. On 16 October 1970, as a result of a Naval Investigative Service investigation into circumstances surrounding Petitioner's alleged homosexual acts with other males, the commanding officer (CO) notified Petitioner of his recommendation for administrative separation and afforded the Petitioner an opportunity to request separation from the naval service to escape trial by court-martial for an offense in violation of the Uniform Code of Military Justice. On 19 October 1970, after consulting with military counsel, Petitioner declined the proposal to request separation to escape court-martial.

d. On 26 October 1970, Petitioner was notified that he was being recommended for administrative separation from the naval service by reason of homosexual acts. Petitioner was advised of his procedural rights, and elected his right to consult with military counsel, but did not elect to have his case heard by an administrative separation board. The CO then forwarded Petitioner's administrative separation package to the separation authority (SA) recommending administrative separation from the naval service with a general (under honorable conditions) characterization of service. The SA approved and directed administrative separation from the naval service by reason of homosexual acts with a general (under honorable conditions) characterization of service. On 13 November 1970, Petitioner was discharged.

e. 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 characterization of service to "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," 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 the law and policy established in references (b) and (c), the Board concludes that Petitioner's request warrants relief.

After careful consideration of the law and policy established in the references, the Board concludes Petitioner's request warrants relief in the form of changing his characterization of service to "Honorable," and to reflect a less stigmatizing reason for separation by changing his narrative reason for separation to "Secretarial Authority."

RECOMMENDATION:

In view of the above, the Board directs the following corrective action:

That Petitioner be issued a new DD Form 214 indicating that on 13 November 1970 his characterization of service was "Honorable," and his narrative reason for separation was "Secretarial Authority."

No further action be granted.

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

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

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 entitled matter.

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 Regulations, 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.

4/30/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]