



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

█
Docket No: 2824-21
Ref: Signature Date

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 Record following Repeal of U.S.C. 654)

Encl: (1) DD Form 149
(2) Naval record (excerpts)

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 naval record be corrected, specifically, to change his his characterization of service to honorable and reentry code to RE-1. Enclosure (2) applies.

2. The Board consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 9 July 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 review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active service on 22 November 1985. On 27 November 1985, Petitioner signed a sworn statement admitting his engagement in homosexual activities prior to enlistment. On 3 December 1985, Petitioner was notified of the

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

initiation of administrative separation proceedings by reason of fraudulent enlistment into naval service, and failure to disclosed previous homosexual activities on enlistment documents. On 4 December 1985, Petitioner elected to waive all his procedural rights. On 10 December 1985, the Petitioner's commanding officer forwarded Petitioner's separation package to the separation authority recommending Petitioner's an entry level separation by reason of fraudulent entry. On 18 December 1985, Petitioner was discharged.

d. References (b) and (c) set 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 guidance to grant requests to change the characterization of service to "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," and reenry 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.

e. Petitioner contends that his discharge was discriminatory, improper, and unfair because it was based exclusively on his sexuality. Petitioner claims that discrimination against his sexuality contributed to him not being able to complete his military career.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board concludes that Petitioner's request warrants partial relief. In this regard, the Board noted Petitioner's overall record of military service and current Department of the Navy policy.

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

RECOMMENDATION:

That Petitioner's be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating "secretarial authority" as his narrative reason for separation, "RE-1J" as his reenlistment code, "JFF" as his separation code, and "MILPERSMAN 1910-164" as the separation authority.

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 Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing

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

corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

7/21/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]