



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

██████████
Docket No: 4301-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████, 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. Petitioner states he was discharged with an other than honorable (OTH) characterization of service due to Don't Ask Don't Tell (DADT). Enclosure (2) applies.

2. The Board consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 4 August 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 28 June 1996. On 21 January 1998, Petitioner admitted to engaging in homosexual acts prior to, and after his enlistment in the Navy. On 28 January 1998, Petitioner was notified of the initiation of the

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initiation of administrative separation proceedings by reason of misconduct due to homosexuality. On 3 February 1998, Petitioner waived his right to consult with counsel, and waived his right to a hearing before an administrative discharge board (ADB). On 27 February 1998, Petitioner's commanding officer recommended Petitioner's discharge with an honorable characterization of service by reason of homosexuality. On 2 April 1998, the discharge authority approved Petitioner's discharge but directed an other than honorable (OTH) characterization of service by reason of homosexual acts, and Petitioner was so discharged on 21 April 1998.

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 reentry 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 he was discharged due to DADT.

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 relief. In this regard, the Board noted Petitioner's overall record of military service and current Department of the Navy policy. The Board further determined that there were no aggravating factors, such as misconduct, in Petitioner's record.

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 an "honorable" characterization of service, "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.

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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.

8/16/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]