



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

[REDACTED]
Docket No: 4723-21
Ref: Signature date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 w/ enclosures

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 discharge be upgraded to an honorable character of service and that his narrative reason for separation, his separation code, and his reentry code be corrected to reflect no reservations. Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 December 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, applicable statutes, regulations, and policies, to include references (b) and (c).

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. Petitioner's personal appearance, with or without counsel, would not materially add to the Board's understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered the case based on the evidence of record.

c. Petitioner enlisted and began a period of active duty on 26 July 1966.

d. On 15 December 1967, a witness provided a detailed statement that he had observed Petitioner engage in consensual homosexual acts with another sailor.

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e. On 9 February 1968, following review and determination by the General Court-Martial Convening Authority to process Petitioner through administrative board action, Petitioner's command notified him of separation for reason of unfitness due to homosexual conduct with a potential undesirable characterization of service. Petitioner waived his right to an administrative board and requested discharge.

f. Petitioner's Commanding Officer strongly endorsed a discharge characterization of General (Under Honorable Conditions) based on Petitioner's otherwise excellent record of performance and conduct. Petitioner's final trait average for his period of enlistment was 3.56, with a military behavior average of 3.53.

g. On 26 March 1968, Petitioner was discharged by reason of unfitness with a General (Under Honorable Conditions) discharge under the regulatory authority of Bureau of Personnel Article C-10311, with a separation code of 253, discharge as a result of board action (Class II homosexual), reason not stated in Certificate of Release or Discharge from Active Duty (DD Form 214).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that the Petitioner's request warrants favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) and (c) intended to be covered by this policy.

In this regard, the Board noted that Petitioner's separation and characterization of service was based solely on sexuality and without misconduct. Petitioner's in-service record of performance and conduct reflected honorable service. Therefore, it is in the interest of justice and fundamental fairness to grant relief.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 26 March 1968, he was discharged with an "Honorable" character of service, "BUPERS Manual Art. C-10306" separation authority, "21L" separation code, "Other good and sufficient reasons (non-derogatory) when determined by proper authority" narrative reason for separation, and reentry code "RE-1A."

That Petitioner be issued an honorable discharge certificate.

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

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

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

1/10/2022

[REDACTED]
Executive Director
[REDACTED]