



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

█
Docket No: 4864-21
Ref: Signature Date

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

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

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 (NR20210004864)
(2) Case Summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting a change to his reentry (RE) code from RE-4 to RE-1, and a change to his narrative reason for separation by removing "Homosexuality- Stated he is a homosexual or bisexual." Enclosures (2) applies and references (a) through (c) apply.

2. The Board consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 22 October 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.

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.

c. Petitioner enlisted in the Navy and began a period of active duty on 29 October 1974. Petitioner served honorably until 8 June 1978, when he re-enlisted and began a second period of enlistment on 9 June 1978. Petitioner served honorably until his immediate reenlistment beginning on 9 March 1982.

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d. On 18 November 1982, Commanding Officer, USS [REDACTED] recommended that Petitioner be discharged by reason of misconduct due to homosexuality and that he received an honorable discharge.

e. On 17 December 1982, Petitioner was discharged from the Navy on the basis of homosexuality and received an honorable discharge and a reentry (RE) code of RE-4. Petitioner's narrative reason for separation on his Certificate of Release or Discharge from Active Duty (DD Form 214) reads "Homosexuality- Stated He is a Homosexual or Bisexual."

f. In his application to the Board, Petitioner requests a change to his RE-4 to an RE-1, and a change to his narrative reason for separation. Petitioner states that sexual orientation is no longer a valid reason for discharge and cites the repeals of "don't ask, don't tell" (DADT).

g. References (b) and (c) set forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the 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.

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 full relief. The Board noted that there are no aggravating factors of misconduct in the Petitioner's record, and that he received an honorable characterization of service upon his discharge from the Navy on 17 December 1982.

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

RECOMMENDATION:

That Petitioner's naval record be corrected to show that on 17 December 1982, Petitioner was issued an honorable discharge by reason of "Secretarial Authority," that his SPD code is "JFF," his separation authority is "MILPERSMAN 1910-164," and his RE code is RE-1J. That Petitioner be issued a new DD Form 214.

The Board determined that no further corrective should be taken.

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.

11/8/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]