



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

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Docket No: 6598-21

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER ■■■■■
■■■■■ USMC

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 upgraded to honorable and change his narrative reason for separation. Additionally, Petitioner request that he be eligible for all post enlistment military benefits, to include, VA Loan eligibility, obtain a VA identification card, and have his veteran status listed on his ■■■■■ driver's license. Implicit in this request is that changes also be made to Petitioner's reenlistment code, separation authority and separation program designator (SPD) indicated on Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board, consisting of ■■■■■ reviewed Petitioner's allegations of error and injustice on 17 November 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 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. 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.

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c. Petitioner enlisted in the Marine Corps and began a period of active duty on 26 July 1988. On 28 April 1989, after being informed of his rights under Article 31, Petitioner freely admitted that he is a homosexual and plans to continue this practice; he does not wish to remain in the Marine Corps due to his homosexuality.

d. On 1 June 1989, Petitioner was notified that he was being recommended for administrative separation from the Marine Corps by reason homosexuality. Petitioner was advised of his procedural rights, waived his right to consult with military counsel and to present his case to an administrative discharge board. The commanding officer then forwarded Petitioner's administrative separation package to the separation authority recommending administrative separation from the Marine Corps with a general (under honorable conditions) character of service. The separation authority approved and directed that Petitioner be administratively separated from the Marine Corps with a general (under honorable conditions) characterization of service by reason of homosexuality - admission. On 15 August 1989, Petitioner was discharged.

e. Petitioner contends that he enlisted with the full intent of serving the United States for four or more years and with the understanding that he would be eligible for VA benefits after serving. He feels that since he was discharged after just over one year for reasons that are no longer recognized as reasons for separation; he should have his DD Form 214 cleaned and be eligible for all benefits he would have realized had he not been unfairly discharged. Petitioner further states that he has felt extreme shame, and embarrassment for the last 32 years because of this and have had to hide his service record because it is impossible to explain to people what happened to him.

f. 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 partial relief.

The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality with no aggravating factors. In this regard, the Board concluded that the record should be changed to reflect a less stigmatizing reason for separation by upgrading Petitioner's discharge characterization of service, changing the narrative reason for separation, reenlistment code, SPD code, and separation authority.

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In regards to Petitioner's request for post service enlistment military benefits, VA Loan eligibility, obtaining a VA identification card, and having veteran status listed on his driver's license, the Board concluded that the requested benefits are not in this Board's purview. The Board will inform the Petitioner that his eligibility to receive the requested benefits is a matter under the cognizance of the Department of Veterans Affairs (VA) and he should contact his nearest VA office concerning whether or not he is eligible for benefits.

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 and discharge certificate indicating that on 15 August 1989, Petitioner's characterization of service was "Honorable," narrative reason for separation was "Determination of Service Secretary – Secretary of the Navy Plenary Authority," the SPD code assigned was "JFF1," the reenlistment code was "RE-1J," and the separation authority was "MARCORSEPMAN 6214."

No further action be granted.

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.

12/13/2021

[REDACTED]

Executive Director

[REDACTED]