



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

█
Docket No: 7053-21
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER █, █,
XXX-XX-█, 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 Record following Repeal of U.S.C. § 654)
(d) USD memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 with attachments
(2) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting a change to his discharge characterization, and the corresponding removal of all related references to homosexuality on his Certificate of Release or Discharge from Active Duty (DD Form 214), to reflect current military directives and policy.

2. The Board, consisting of █, █, █, and █ reviewed Petitioner's allegations of error and injustice on 15 November 2021, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies to include references (b)-(d).

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 Marine Corps and began a period of active duty on 25 August 1998. On 7 January 1999, a fellow Marine walked in on Petitioner kissing another Marine. The

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

Marine that witnessed the occurrence reported it to his sergeant. On 13 January 1999, the Petitioner's platoon commander recommended to his commanding officer that the Petitioner be discharged based on the Petitioner's admission of participating in homosexual conduct. On 20 January 1999, the Petitioner's commanding officer recommended that the Petitioner be administratively separated due to homosexual conduct. On 18 June 1999, the Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith. He did not consult with counsel and waived his right to an administrative board. On 13 October 1999, the discharge authority directed that the Petitioner be discharged by reason of homosexual conduct with an other than honorable characterization of service. On 18 October 1999, the Petitioner was so 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 normally grant requests to change the characterization of service to "honorable" or "general (under honorable conditions)," narrative reason for discharge to "secretarial authority," separation 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 in light of references (b) and (c), the Board concludes that Petitioner's request warrants relief. The Board noted Petitioner's record supports that he was administratively discharged by reason of homosexual conduct. The Board observed that the Petitioner did not have adjudicated misconduct in his record. The Board also noted the Petitioner's overall record of military service, including his proficiency and conduct marks, and current Department of the Navy policy as established in reference (c), and concluded that complete relief in the form of upgrading his discharge characterization, narrative reason for separation, separation authority, separation code, and reentry code is proper at this time.

RECOMMENDATION:

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

In view of the above, the Board directs the following corrective action: Petitioner be issued a new DD Form 214 reflecting that his characterization of service at the time of his discharge was honorable, Secretarial Authority narrative reason for separation, MARCORSEPMAN par. 6214 separation authority, JFF1 SPD, and RE-1J reentry code.

That the Petitioner be issued an honorable discharge certificate.

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

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

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.

11/16/2021

[REDACTED]
Deputy Director
[REDACTED]