



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

█
Docket No: 7805-21

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █, 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 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 characterization of service be upgraded to "honorable." Additionally, that changes also be made to his narrative reason for separation, reenlistment code, separation program designator (SPD) and separation authority indicated on his Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board, consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 12 January 2022 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.

c. Petitioner enlisted in the Navy and began a period of active duty on 24 February 1989.

d. On 12 June 1990, Petitioner provided a voluntary statement to an investigating officer professing to have engaged in homosexual activity with another person.

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e. 6 February 1981, Petitioner was notified that he was being recommended for administrative separation from the Navy by reason of misconduct due to homosexuality. Petitioner was advised of, and exercised his procedural right, to consult with military counsel and to present his case to an administrative discharge board (ADB). An ADB was convened and found that Petitioner committed acts of homosexuality and recommended Petitioner's administrative separation from the Navy with an other than honorable (OTH) characterization of service.

f. Petitioner's commanding officer (CO) then forwarded his administrative separation package to the separation authority (SA) concurring with the ADBs findings and recommendation. The SA approved the recommendation for administrative discharge, and directed Petitioner's administrative discharge from the Navy with an OTH characterization of service by reason of homosexuality. On 17 September 1990, Petitioner was so discharged.

g. Petitioner presented the following contentions for consideration through counsel:

1) Homosexuality was the only reason Petitioner was considered for discharge during every phase leading up to and resulting in his departure from the Navy;

2) Petitioner displayed an outstanding record of performance and his acts with other service members do not rise to the level of an aggravating factor;

3) During his timeserving in the Navy, Petitioner was rated highly in his performance evaluations; and

4) Petitioner's acts with other service members do not rise to the level of an aggravating factor.

h. 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 relief.

The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality. 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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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 24 February 1989, Petitioner's characterization of service was "Honorable," narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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.

1/24/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]