



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

█
Docket No: 96-22
Ref: Signature date

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

Subj: REVIEW NAVAL RECORD OF █, 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 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his characterization of service "Other Than Honorable" be changed per reference (b). Enclosures (1) through (3) apply.

2. The Board consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 23 February 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, 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 entered active duty with the Navy on 4 June 1964. On 27 September 1966, Petitioner was in an unauthorized absence (UA) status for one day. On 21 February 1967, Petitioner received non-judicial punishment (NJP) for attempting to steal hand tools and office supplies in addition to illegal possession of alcohol beverages.

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[REDACTED]

On 31 July 1967, Petitioner made a written statement admitting to his involvement in homosexual acts while serving in the Navy. On 1 August 1967, Petitioner received a psychiatric evaluation, which stated in part that Petitioner is not suffering from a psychosis or mental disorder and not feigning homosexuality in order to obtain separation from the Navy. The evaluation also noted that Petitioner is able to control his acts of interpersonal relationships. Subsequently, Petitioner was notified of pending administrative separation action by reason of homosexuality. After waiving his procedural rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge by reason of homosexuality, with an other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 12 September 1967, Petitioner was discharged with an OTH characterization of service by reason of homosexuality.

d. Petitioner contends that his discharge was based solely on him being a homosexual.

e. Reference (c) sets 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 grant requests to change the characterization of service to "honorable", narrative reason for separation to "secretarial authority", SPD code to "JFF," and reenry 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 reference (b) and (c), the Board concludes that Petitioner's request warrants partial relief. In this regard, the Board noted that Petitioner was separated solely on his sexuality. Therefore, relief in the form of changes to his characterization of service, narrative reason for separation, separation code, separation authority, and reenlistment code are appropriate. The Board also concluded that Petitioner request to change his characterization of service to honorable should be denied due to the misconduct he committed prior to his separation from the Navy. In making this finding, the Board considered Petitioner's UA and NJP that were committed during his relatively brief period of active duty.

In view of the foregoing, the Board directs the following partial corrective action.

RECOMMENDATION:

That Petitioner's record be corrected to show that on 12 September 1967, his characterization of service was "General under Honorable Conditions", his narrative reason for separation was "Secretarial Authority," reenlistment code was "RE-1J," SPD code was "JFF," and his separation authority was "MILPERSMAN 1910-164".

That no further changes be made to the record.

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

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[REDACTED]

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.

3/2/2022

[REDACTED]
Executive Director
[REDACTED]