



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

█
Docket No: 0820-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █, █,
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)
(d) USECDEF 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) 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 naval record be corrected by changing the characterization of service and the name on his Certificate of Release or Discharge from Active Duty (DD Form 214).

2. The Board consisting of █, █, and █ reviewed Petitioner's allegation of injustice on 14 March 2022 and, pursuant to its regulations, determined 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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 review the application on its merits.

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

c. Petitioner enlisted in the U.S. Navy and commenced a period of active duty on 15 December 1982. On 4 January 1983, a medical consultation report documents Petitioner was referred to medical because of possible homosexual tendencies and temper outbursts. On 3 February 1983, a substance abuse report captures Petitioner exhibited poor potential for further naval service. On 8 February 1983, a recruit evaluation/progress and performance report documents his performance has improved but notes he continued to display homosexual conduct. On 10 February 1983, Petitioner provided a statement admitting to bisexual and homosexual conduct prior to his enlistment but denying involvement in any homosexual activity since arriving at boot camp. On 23 February 1983, Petitioner was notified of pending administrative separation action by reason of defective enlistment and induction due to fraudulent enlistment for failure to disclose pre-service homosexuality. Petitioner elected his right to obtain copies of documents to be forwarded to the discharge authority and waived all other procedural rights. On 24 February 1983, Petitioner's commanding officer (CO) recommended to the discharge authority that Petitioner be separated with a general, under honorable conditions (GEN) characterization of service. On 3 March 1983, the discharge authority directed Petitioner be separated with a GEN characterization of service by reason of entry level separation and assigned an RE-4 (not recommended for reenlistment) reentry code. At the time of his discharge Petitioner completed two months and 19 days of active service. On 23 February 1988, a letter from Director, Military Correspondence Division, informed Petitioner that his characterization of service should reflect "Entry Level Separation" instead of "Under Honorable Condition (General)". Petitioner was issued a DD Form 215 showing the correction.

d. 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.

e. Petitioner contends in light of the repeal of DADT, he would like his discharge upgraded to Honorable and requests his name changed on a new DD Form 214.

f. Petitioner submitted copies of his U.S. Passport, Social Security Number Card, Driver's License, and a name change court order from the [REDACTED] that reflects his current name.

CONCLUSION:

The Board may consider applications for name changes to a Petitioner's DD Form 214 to correct an error or remove an injustice. The Petitioner provided justification demonstrating that having the former name on the DD Form 214 causes an injustice. Although the military record was correct at the time it was made, former military personnel who have legally changed their name and sex, or are the subject of gender reassignment, may have their DD Form 214 changed to accurately reflect their present name and sex/gender. In this regard, the change may allow them to obtain various benefits, services, employment, etc., without being subject to otherwise

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

invasive questions about their personal history. However, the provisions/guidance only apply to the service-member's DD Form 214, and as such, no further changes will be made to the record.

Regarding Petitioner request for an upgrade, as he only served a total of two months and 19 days of active service, the Board concluded his uncharacterized discharge remains appropriate. Service regulations direct uncharacterized entry-level separations for service members discharged in their first 180 days of active duty service. The Board found no extraordinary circumstances to merit a waiver in policy in Petitioner's case.

RECOMMENDATION:

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

That Petitioner's naval record, specifically, Block 1 of the DD Form 214, be corrected to reflect the name "[REDACTED]" instead of "[REDACTED]."

That Petitioner be issued a new DD Form 214 which reflects the Petitioner's current name.

No further changes be made to Petitioner's record.

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.

3/29/2022

[REDACTED]

Executive Director

[REDACTED]