



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

[REDACTED]
Docket No: 1156-22
Ref: Signature Date

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

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

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
(2) Naval record (excerpts)

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 to reflect a change to his narrative reason for separation in accordance with reference (c). Enclosure (2) applies.

2. The Board consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 March 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 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.

c. Petitioner enlisted in the Navy and began a period of service on 3 May 1982.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]
USN [REDACTED]

d. Prior to his enlistment, Petitioner completed a Report of Medical History and answered "no" when asked if he was homosexual. Petitioner also completed Section 4 of his enlistment contract and answered "no" when asked if he ever engaged in homosexual activities.

e. On 17 June 1982, Petitioner was administratively separated from the Navy with a general discharge characterization of service by reason of misconduct due to fraudulent enlistment. His DD Form 214 reflects "MILPERMAN 3420184" as the authority for his separation. This documents Petitioner was discharged for unsuitability for service vice fraudulent enlistment.

f. 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 grant requests to change the characterization of service to "honorable," narrative reason for discharge 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.

g. Petitioner contends that he was discharged from service as a result of being homosexual. He states that it is now illegal or not allowed to separate someone from service for being homosexual.

CONCLUSION:

The Board carefully reviewed the Petitioner's record and determined that he was administratively separated in accordance with "MILPERMAN 3420184" by reason of unsuitability for service. Further, the Board noted that Petitioner's DD Form 214 incorrectly reflects "misconduct due to fraudulent enlistment" vice "unsuitability for service due to homosexuality" as narrative reason for separation. The Board determined as a matter of clemency adjustment to the Petitioner's record is warranted. Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board concludes that Petitioner's request warrants full relief. In this regard, the Board noted Petitioner's overall record of military service and current Department of the Navy policy.

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

RECOMMENDATION:

That Petitioner's be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating "honorable" as characterization of service, "secretarial authority" as narrative reason for separation, "RE-1J" as reenlistment code, "JFF" as separation code, and "MILPERSMAN 1910-164" as separation authority.

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.

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

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.

3/30/2022

[REDACTED]

Executive Director

[REDACTED]