



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

█
Docket No: 2060-22
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, █

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 change his narrative reason for separation, separation code, and reenlistment code in accordance with reference (c). Enclosure (2) applies.

2. The Board consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 11 April 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 active service on 3 November 1987.

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

d. On 22 March 1989, Petitioner submitted a sworn statement to an NIS investigator admitting his engagement in homosexual acts before and after joining the Navy.

e. On 29 April 1989, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexuality, at which point, he elected to waive his procedural rights.

f. On 23 May 1989, the Petitioner's commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of homosexuality.

g. On 28 May 1989, the separation authority approved and ordered that Petitioner be administratively separated from the Navy with a discharge characterization of service warranted by service.

h. On 16 June 1989, Petitioner was discharged with an honorable discharge characterization of service by reason of homosexuality.

i. 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 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.

j. Petitioner is requesting that the narrative reason for separation found in section 28 of his DD-214 "Homosexuality-Engaged in, Attempted to engage in, or solicited another to engage in a homosexual act or acts" be removed. He argues the remark and reason for separation in section 28 are inequitable due to defunct and repealed discriminatory policies that sought to expulse him from the military due to his sexual orientation. Petitioner further argues that being gay is not a crime and requests that his separation and re-enlistment codes also be changed.

CONCLUSION:

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 relief. In this regard, the Board noted Petitioner's overall record of military service and found no aggravating factors in his record.

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 "Secretarial Authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF" separation code, and "MILPERSMAN 1910-164" separation authority.

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

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 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.

5/2/2022

[REDACTED]

Executive Director

[REDACTED]