



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

██████████
Docket No: 2061-22
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 upgrade his characterization of service to Honorable in accordance with reference (b) and (c). Enclosures (1) and (2) apply.

2. The Board consisting of ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 8 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 26 June 1997.

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[REDACTED]

d. On 14 December 1998, Petitioner submitted an admission to the commission of homosexual acts. On the same day, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct, at which point, Petitioner waived his right to consult with counsel, and his right to review of his case by an administrative discharge board (ADB).

e. On 15 December 1998, Petitioner's commanding officer recommended Petitioner's discharge with an Other than Honorable (OTH) characterization of service by reason of homosexual conduct.

f. Subsequently, on 29 December 1998, the discharge authority approved and directed Petitioner's discharge. On 5 January 1999, Petitioner was discharged with an OTH characterization of service by reason of homosexual admission and issued an RE-4 reentry code.

g. 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.

h. Petitioner contends his record should be corrected because DADT has been repealed and he was recently made aware he could request an upgrade.

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 homosexual act occurred onboard a naval vessel while underway but considered that Petitioner was only processed for his homosexual act and not the commission of a serious offense. As a result, the Board determined his discharge was based solely on DADT policies and his conduct did not amount to an aggravating factor that should prevent relief under the existing guidance.

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

Further, Petitioner be issued an Honorable discharge certificate.

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[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.

5/3/2022

[REDACTED]

Executive Director
[REDACTED]