



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

█
Docket No: 2377-22
Ref: Signature date

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

Subj: REVIEW NAVAL RECORD OF █
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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 (OTH) and narrative reason for separation "Homosexual Acts" be changed per reference (b). Enclosures (1) through (3) apply.

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 3 August 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. After a previous period of honorable service, Petitioner reenlisted in the Navy on 10 January 1964. On 19 June 1964, Petitioner was convicted by special court-martial (SPCM) for being in an unauthorized absence (UA) for 27 days. On 26 August 1964, Petitioner made a written statement admitting to his involvement in homosexual acts prior to his enlistment and while on active duty. Subsequently, on 3 September 1964, Petitioner requested an undesirable discharge for the good of

Subj: REVIEW NAVAL RECORD OF [REDACTED]

the service (GOS) to avoid trial by court-martial. Petitioner was then notified of pending administrative separation action by reason of homosexual acts. After waiving his procedural rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge with an OTH characterization of service. The SA approved the recommendation and, on 5 October 1964, Petitioner was discharged with an OTH characterization of service by reason of homosexual acts. Petitioner's final conduct and proficiency marks averaged 3.6 for his enlistment period.

d. 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 relief. In this regard, the Board noted that Petitioner was separated solely for his homosexuality. As a result, he was assigned an OTH characterization despite conduct and proficiency marks that qualified for an Honorable characterization of service. In reviewing Petitioner record, the Board noted his SPCM conviction but determined this misconduct was not the basis for his administrative separation processing. Therefore, the Board found no aggravating factors to disqualifying him from receiving the benefit of the reference (c). Therefore, relief in the form of changes to his characterization of service, narrative reason for separation, separation code, separation authority, and reenlistment code were determined to be appropriate.

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

RECOMMENDATION:

That Petitioner's record be corrected to show that, on 5 October 1964, his characterization of service was "Honorable", 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."

Petitioner be issued a new DD Form 214 and discharge certificate reflecting the corrections.

That no further changes be made to the record.

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 NAVAL RECORD OF [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.

8/11/2022

[REDACTED]

Executive Director
[REDACTED]