



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

█  
Docket No: 3123-22

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, [PRESENTLY █, █]

Ref: (a) 10 U.S.C. §1552  
(b) OSD/DOD Name Change Provisions/Guidance  
(c) 10 U.S.C. 654 (Repeal)  
(d) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)

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 her naval record be corrected to reflect a name change.

2. The Board consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 11 May 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, to include references (b) through (d).

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 began a period of active duty in the Navy on 17 August 1976. At the time of enlistment, Petitioner's in-service name reflected as "█." On 11 October 1977, Petitioner was authorized a name change from "█" to "█".

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d. On 20 October 1977, Petitioner was advised of her suspect rights by an investigating officer and was informed that she was suspected of homosexuality, sodomy, and fraudulent enlistment; Petitioner acknowledged her suspect rights and provided a voluntary statement to the investigating officer professing that she is bisexual and had engaged in homosexual acts.

e. Subsequently, Petitioner was notified that she was being recommended for administrative separation from the Navy by reason of misconduct due to fraudulent enlistment as evidenced by failure to report homosexual activity prior to enlistment. Petitioner was advised of, and waived her procedural rights, to consult with military counsel and to present her case to an administrative discharge board (ADB).

f. Petitioner's commanding officer (CO) then forwarded her administrative separation package to the separation authority (SA) recommending Petitioner's administrative discharge from the Navy with an under other than honorable (OTH) conditions characterization of service. The SA directed Petitioner's discharge and on 18 January 1978, she was discharged with a general (under honorable conditions) characterization of service by reason of misconduct. Petitioner was issued a Report of Separation from Active Duty (DD Form 214) based on the name used while serving in the Navy, specifically, "[REDACTED]."

g. After discharge from the naval service, Petitioner, who is a transgender woman, had her name legally changed from "[REDACTED]" to "[REDACTED]" to align with her gender identity.

h. Petitioner contends that the current name listed no longer reflects her legal name or gender.

i. Based on the guidance reflected in reference (b), from the Office of the Secretary of Defense (OSD) and Department of Defense (DOD), 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 invasive questions.

j. 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, narrative reason for discharge, SPD code, and reenlistment code 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 the Board concludes that Petitioner's request warrants relief.

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The Board noted Petitioner has provided legal evidence (specifically, a Decree Changing Name and Gender from the Superior Court of California, County of Stanislaus) supporting her request. The Board found the legal actions taken by civilian authorities to change Petitioner's name to align with her gender identity, along with the provisions/guidance of reference (b), support a change to DD Form 214.

In this regard, the Board noted that normally a DD Form 215 would be issued to correct the record, however, the Board concluded a new and updated DD Form 214 is warranted to eliminate the possibility of invasive questions. The Board further concluded that both the previously issued DD Form 214 bearing the name "[REDACTED]" and the new DD Form 214 bearing the name "[REDACTED]" should remain in the record for historical purposes.

Additionally, in accordance with reference (c) and (d), although not specifically requested by the Petitioner, the Board noted Petitioner's record supports that she was solely discharged on the basis of homosexuality. In this regard, the Board concluded that the record should be changed to reflect a less stigmatizing reason for separation by upgrading Petitioner's discharge characterization of service, changing the narrative reason for separation, reenlistment code, SPD code, and separation authority.

#### RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 reflecting the name "[REDACTED]" instead of "[REDACTED]."

That Petitioner's characterization of service was "honorable," narrative reason for separation was "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," the SPD code assigned was "JFF," the reenlistment code was "RE-1," and the separation authority was "BUPERSMAN 3850220."

That Petitioner be issued a new discharge certificate.

That no further action be granted.

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.

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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.

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6/4/2022

