



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

██████████
Docket No: 3130-22
Ref: Signature date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████
██████████ USMC

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 Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his characterization of service General (Under Honorable Conditions) characterization of service and narrative reason for separation "Homosexual Acts" be changed per references (b) and (c). Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████ and ██████████, reviewed Petitioner's allegations of error and injustice on 28 September 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. Petitioner entered active duty with the Marine Corps on 29 June 1973. On 30 September 1974, Petitioner received non-judicial punishment (NJP) for failure to go at time prescribed to appointed place of duty. On 29 November 1974, Petitioner admitted in writing to being a homosexual and his involvement in homosexual acts while in the Marine Corps. Subsequently,

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER [REDACTED]

[REDACTED] USMC

Petitioner was notified of pending administrative separation action by reason of unfitness (Homosexuality). After waiving his procedural rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA), recommending his discharge by reason of unfitness (Homosexuality) with a General (Under Honorable Conditions) characterization of service. The SA approved the recommendation and, on 24 January 1975, Petitioner was discharged with a General (Under Honorable Conditions) characterization of service by reason of unfitness (Homosexuality). Petitioner's final conduct and proficiency marks exceeded 4.0 for his enlistment period.

d. Petitioner contends that his discharge was based solely on his sexual preference.

e. 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 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.

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. While the Board considered Petitioner's misconduct, they noted he was not dual processed for misconduct and homosexual acts. As a result, the Board determined that Petitioner was discharged based solely on his admission of being a homosexual and committing homosexual acts while on active duty and no aggravating factors exists in his record. The Board also noted that Petitioner was assigned a General (Under Honorable Conditions) characterization of service despite possessing conduct and proficiency marks which qualified him for an Honorable characterization of service. Therefore, relief in the form of changes to his characterization of service, narrative reason for separation, separation code, separation authority, and reenlistment code are appropriate.

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

RECOMMENDATION:

That Petitioner's record be corrected to show, for the period ending 24 January 1975, his characterization of service was "Honorable", his narrative reason for separation was "Secretarial Authority," reenlistment code was "RE-1J," SPD code was "JFF1," and his separation authority was "MARCORSEPMAN 6214."

That Petitioner be issued a new DD Form 214 and a discharge certificate.

That no further changes be made to the record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

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

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.

10/6/2022

[REDACTED]

Executive Director

[REDACTED]