



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

█
Docket No: 4133-22
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, XXX-XX-█

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)
(3) Advisory Opinion (AO) of 27 July 2022

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, in accordance with reference (b) and (c), and his entitlement to the Combat Action Ribbon. Enclosure (2) applies.

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

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c. Petitioner enlisted in the Navy and began a period of active service on 13 February 1970. On 24 January 1974, he was discharged with an Honorable characterization of service by reason of immediate reenlistment.

d. Petitioner reenlisted in the Navy on 25 January 1975 and began a second period of active duty. Subsequently, on 12 September 1975, Petitioner submitted a sworn statement admitting his engagement in homosexual activities. As a result, Petitioner was notified of the initiation of administrative separation proceedings by reason of unfitness due to homosexual acts and he elected to waive all his procedural rights. Petitioner's commanding officer (CO) recommended a General (Under Honorable Conditions) discharge characterization but Petitioner requested an Honorable characterization based on his record of service. After Petitioner's CO submitted a request for a discharge reconsideration, on 1 October 1975, an Enlisted Discharge Board recommended that Petitioner be separated from the Navy with a General (Under Honorable Conditions) characterization of service. Petitioner was subsequently discharged, on 10 October 1975, with a General (Under Honorable Conditions) discharge characterization by reason of unfitness due to homosexual acts.

e. 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.

f. Petitioner contends that there were no aggravating factors in his record such as misconduct prior to his separation from service.

g. In light of the Petitioner's request for the CAR, the Board requested the enclosure (3), an AO from Navy Personnel Command (PERS-3B). The AO concluded Petitioner is entitled to the CAR and a DD Form 215 will be issued to correct the discrepancy.

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 determined he is entitled to full relief under current Department of the Navy policy. Specifically, the Board found that Petitioner was discharged solely for a policy similar to DADT and no aggravating factors exist in his record.

Regarding Petitioner's request for a CAR, the Board concluded the issue was moot based on Navy Personnel Command actions documented in enclosure (3). Therefore, the Board concluded no additional Board action was required on this issue.

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

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RECOMMENDATION:

That Petitioner's be issued a new DD Form 214 for the period ending 10 October 1975 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.

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.

8/25/2022

[REDACTED]
Executive Director

Signed by: [REDACTED]