



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

██████████
Docket No: 5159-22

Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. §1552
(b) SECDEF memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," of 3 September 2014
(c) USD memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or Traumatic Brain Injury (TBI)," of 24 February 2016
(d) USD memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017
(e) USD memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018
(f) 10 U.S.C. 654 (Repeal)
(g) UNSECDEF Memo OF 20 Sep 11 (Correction of Military Record following Repeal of U.S.C. 654)

Encl: (1) DD Form 149 w/attachments
(2) Case summary
(3) Advisory opinion of 27 September 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 her naval record be corrected by upgrading her discharge characterization to Honorable with associated change to her narrative reason for separation, separation authority, separation code, and reentry code.

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

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regulations, and policies, to include references (b) through (g). Additionally, the Board considered enclosure (3), the 27 September 2022 advisory opinion (AO) furnished by a qualified mental health provider. Petitioner was provided an opportunity to comment on the AO but chose not to do so.

3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although Petitioner did not file her application in a timely manner, the statute of limitation was waived in accordance with reference (d).

b. The Petitioner enlisted in the Marine Corps and commenced a period of active duty on 22 March 1999. On 15 April 1999, Petitioner's spouse contacted her command with allegations that Petitioner was a known homosexual. On 21 April 1999, it was found there was no basis for the initiation of separation proceedings by reason of homosexuality. On 14 March 2000, a second inquiry regarding the Petitioner's sexuality was initiated. On 17 March 2000, Petitioner submitted a voluntary statement with admission of her homosexual conduct, and her husband's pending domestic abuse charges.

c. On 19 April 2000, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct. Petitioner waived her right to consult with counsel and a hearing before an administrative discharge board (ADB). Subsequently, Petitioner's commanding officer recommended her separation from the Marine Corps with a General (Under Honorable Conditions) (GEN) character of service due to homosexual conduct. On 8 May 2000, the separation authority approved and directed Petitioner's separation with a GEN character of service. On 9 May 2000, Petitioner was discharged with a GEN character of service by reason of a homosexual act and issued a RE-4 reentry code.

d. References (f) and (g) 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.

e. Petitioner contends she was reported as a homosexual by her abusive husband. She further contends that she was coerced into admitting she was a homosexual.

f. In light of the Petitioner's assertion of PTSD, the Board requested enclosure (3). The AO stated in pertinent part:

There is no evidence that Petitioner was diagnosed with a mental health condition in military service, or that she exhibited any psychological symptoms or behavioral

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[REDACTED] USMC

changes indicative of a diagnosable mental health condition. She has provided no medical evidence in support of her claims. Unfortunately, her personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with her decisions regarding romantic partners. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) would aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition. There is insufficient evidence the circumstances of her separation could be attributed to a mental health condition."

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (f) and (g), the Board concludes that Petitioner's request warrants relief. In this regard, the Board noted Petitioner was discharged solely based on her admission that she committed homosexual acts and her record contained no aggravating factors.

While the Board also considered the AO, the Board found it was irrelevant to whether Petitioner qualified for relief under reference (g).

RECOMMENDATION

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating "Honorable" character of service, "Secretarial Authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF1" separation code, and "MARCORSEP 6214" separation authority.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall 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 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

11/28/2022

[REDACTED]
Executive Director
[REDACTED]