



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

█
Docket No: 5195-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
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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
(2) Naval record (excerpts)

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 the narrative reason for separation, separation authority, separation code, and reentry code listed on his discharge documents in accordance with reference (b) and (c). Enclosure (2) applies.

2. The Board consisting of █ reviewed Petitioner's allegations of error and injustice on 12 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, 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 Marine Corps Reserves (USMCR) and completed a period of honorable service from 9 May 2001 to 7 November 2001 . Petitioner began a second period of honorable service on 4 February 2002. On 13 February 2003, Petitioner submitted a statement to his commanding officer admitting his engagement in homosexual acts prior to join the USMCR.

d. On 15 February 2003, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct. On the same date, Petitioner waived his right to consult with counsel, and his right to a hearing before an administrative discharge board (ADB).

e. On 24 February 2003, the Petitioner's commanding officer recommended an honorable discharge characterization of service by reason of homosexual conduct. Subsequently, the Petitioner's administrative separation proceedings were determined to be sufficient in law and fact. As a result of the foregoing, the discharge authority approved and ordered that Petitioner be discharged from the USMCR with an honorable characterization by reason of homosexual admission. On 16 April 2003, Petitioner was discharged.

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 and his counsel are requesting that certain markers on his DD Form 214 be corrected in accordance with 10 U.S.C. 654 (Repeal) regulatory guidance. The Petitioner's counsel argues that the merits on the Petitioner's case warrant a waiver as it would be inequitable to allow his Certificate of Release or Discharge from Active Duty (DD Form 214) to continue bearing markers related to his sexual orientation. Petitioner already has an honorable discharge. However, he is specifically asking for a new DD Form 214 stating that on 16 April 2003, he was discharged with his narrative reason for separation reflecting as "Secretarial Authority," SPD as "JFF," reenlistment code as "RE-1J," and his separation authority as "MILPERSMAN 1910-164."

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 current Department of the Navy policy, as established in reference (b) and (c).

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

RECOMMENDATION:

That Petitioner be issued a new DD Form 214 indicating "secretarial authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF" separation code, and "MARCORSEPMAN

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[REDACTED]

Para 6207” as separation authority.

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.

9/29/2022

[REDACTED]