



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

[REDACTED]
Docket No. 7026-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USNR, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. §1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)
(d) USECDEF Memo of 25 July 2018 "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

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 the narrative reason for separation be changed and length of service to reflect 36 months on his Certificates of Release or Discharge from Active Duty DD Form 214.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 11 January 2023, and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and 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 review the application on its merits.

c. Petitioner enlisted in the U.S. Navy Reserve and began a period of active duty on 24 October 1988.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USNR, XXX-XX-[REDACTED]

d. On 23 August 1990, the Petitioner was notified for separation for Homosexuality and elected his right to consult with counsel and waived his right to an administrative board. The Commanding Officer (CO) made his recommendation to the Separation Authority (SA) for a discharge type warranted by service record. On 29 August 1990, the SA approved the recommendation and directed Petitioner's discharge.

e. Petitioner's DD Form 214, reveals he was separated from the Navy, on 28 September 1990, with an Honorable characterization of service, his narrative reason for separation is "Homosexuality," his separation code is "HRB," and his reenlistment code is "RE-4."

f. Petitioner provided a personal statement with information regarding the circumstances of his case for consideration. His application reflects that his current name is [REDACTED].

g. 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, the Board concludes Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in references (b) through (d).

Regarding Petitioner's request to change his narrative reason for separation, the Board determined he is entitled to full relief. The Board noted Petitioner was discharged based solely on his sexual orientation and found no evidence of aggravating factors in his record. Therefore, the Board found that it was in the interests of justice to change his narrative reason for separation, separation code, separation authority, and reentry code consistent with the guidance provided in reference (c).

Notwithstanding the corrective action recommended below, the Board concluded there was no basis to grant Petitioner's request for service credit. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. However, after thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. While the Board acknowledged that Petitioner was discharged based on his sexual orientation, the Board found no extraordinary circumstances to warrant the granting of relief beyond what was recommended below. In making this finding, the Board considered the guidance contained in reference (c) which does not authorize the granting of service credit in DADT or similar cases.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USNR, XXX-XX-[REDACTED]

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 indicating that, on 28 September 1990, Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

No further changes be made to Petitioner's record.

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.

1/24/2023

[REDACTED]
Executive Director

Signed by: [REDACTED]