



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

[REDACTED]  
Docket No. 7096-22  
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],  
USN, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. §1552  
(b) Title 10 U.S.C. § 654 (Repeal)  
(c) UNSECDEF Memo, 20 Sep 11 (Repeal of U.S.C. 654)  
(d) USECDEF Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149  
(2) DD Form 214  
(3) Admin Separation Message, 29 Jun 83  
(4) [REDACTED] Message, 9 Jul 83  
(5) Admin Discharge Message, 17 Jul 83

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 character of service to honorable in accordance with references (b) and (c).

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 16 November 2022. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (d).

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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

b. Petitioner enlisted in the Navy and began a period of active service on 14 September 1981. On 24 June 1983 Petitioner was notified of proposed administrative discharge processing by

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USN, XXX-XX-██████

reason of homosexuality based on the Naval Investigative Services (NIS) investigation<sup>1</sup> that concluded on 21 June 1983, at which time Petitioner waived his right to counsel and to elect an administrative discharge board. Petitioner commanding officer recommended an under other than honorable (OTH) characterization of service. On 17 July 1983 the separation authority directed Petitioner's discharge with an OTH characterization of service by reason of homosexuality. On 26 July 1983 Petitioner was discharged with an OTH characterization of service by reason of homosexuality—engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts. Enclosures (2) through (5).

c. Petitioner requests an upgrade from an OTH to honorable so that he may call himself an honorable Veteran that has served his country with pride and honor. Petitioner states that he currently lives in ██████████, and now that he is getting older, an honorable discharge may help him out with certain health situations that may or may not occur in the near future. Petitioner contends that he was charged with soliciting another to engage in a homosexual act or acts, and states that he did not solicit anyone but was set up into admitting he was a homosexual at the time. Also contending he was intimidated into waiving his rights which he should have never signed. Further contending he was young, scared, and naive with no legal representation.

#### MAJORITY CONCLUSION

Upon careful review and consideration of all of the evidence of record, and especially in light of references (b) and (c),<sup>2</sup> the Board Majority determined that Petitioner's application warrants partial relief.

The Majority believed that committing sexual acts onboard a naval vessel was an aggravating factor, regardless of the gender. The Majority noted Petitioner willingly waived his rights and admitted that he participated in homosexual acts onboard a naval vessel, and such acts were both against regulations and contrary to good order and discipline. The Majority found for these reasons alone, an OTH character of service was warranted. Notwithstanding, the character of service, the Majority noted that Petitioner's narrative reason of separation should be changed in order to prevent invasive questions and potential discrimination.

#### MAJORITY RECOMMENDATION

In view of the foregoing, the Board Majority recommends the following corrective action:

That Petitioner's be issued a new Certificate of Release or Discharge from Active Duty (DD

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<sup>1</sup> The NIS investigation found that Petitioner's homosexual activity was conducted at Sea on 11 June 1983 onboard USS ██████████ (██████████), in the flag messmen's lounge—common space. When discovered by fellow messmen, Petitioner's partner (another Sailor) was being fellated by Petitioner. In the partner's sworn statement to NIS, the Sailor admitted to having performed fellatio on Petitioner prior to being discovered by his shipmates.

<sup>2</sup> 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.

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Form 214) indicating "Secretary Plenary Authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF" separation code, and "MILPERSMAN 3630900" separation authority.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

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

#### MINORITY CONCLUSION

Upon careful review and consideration of all of the evidence of record, and especially in light of references (b) and (c), the Board Minority determined that Petitioner's application warrants full relief.

The Minority noted that Petitioner was solely discharged based upon his homosexual act or acts, and no other misconduct was noted in his record. The Minority doesn't condone Petitioner's sexual misconduct aboard a naval vessel, however, believed that Petitioner would not have been discharged solely on sexual misconduct, regardless of the gender. In this regard, absent any misconduct, the Minority did not find any aggravating factors in Petitioner's service or discharge. Therefore, the Minority recommends that Petitioner's characterization of service should be upgraded to honorable.

#### MINORITY RECOMMENDATION

In view of the foregoing, the Board Minority recommends the following corrective action:

That Petitioner's be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating an "honorable" character of service, "Secretary Plenary Authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF" separation code, and "MILPERSMAN 3630900" separation authority.

That 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. The foregoing action of the Board is submitted for your review and action.

12/23/2022

[REDACTED]

Executive Director

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

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Majority Recommendation (Partial Relief)

Reviewed and Approved Board Minority Recommendation (Full Relief)

2/7/2023

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]