



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

█
Docket No: 7340-22
Ref: Signature date

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

Subj: REVIEW 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 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that her "Uncharacterized" characterization of service be upgraded. She also implicitly requested that her Narrative Reason for Separation be changed from "Homosexual Admission" to "Secretarial Authority" with associated changed to her reenlistment code, separation code (SPD), and separation authority. Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 19 October 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, 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 waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy and commenced active duty on 22 October 2002. On 12 February 2003, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) and disobeying a lawful order. On 20 February 2003, Petitioner made a statement admitting to

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

being a homosexual and her desire to be discharged from the Navy. Subsequently, Petitioner was notified of pending administrative separation action by reason of Homosexual Admission. After waiving her procedural rights, Petitioner's commanding officer (CO) forwarded her package to the separation authority (SA) recommending her discharge with an uncharacterized characterization of service. The SA approved the recommendation and, on 10 April 2003, Petitioner was discharged with an uncharacterized characterization of service by reason of Homosexual Admission and assigned her a RE-4 reentry code.

d. Petitioner contends her characterization of service was based solely on her admitting to being a homosexual.

e. 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, and especially in light of reference (b) and (c), the Board concludes that Petitioner's request warrants partial relief. In this regard, the Board noted that Petitioner was separated based solely on admitting to being a homosexual. Therefore, relief in the form of changes to her narrative reason for separation, separation code, and separation authority are appropriate.

However, the Board determined that Petitioner's request to change her characterization of service and reenlistment code are not supported by the preponderance of the evidence. The Board made this finding based on Petitioner's overall length of service and the aggravating factor of misconduct committed during this brief period of active duty. The Board found that Petitioner did not qualify for a characterized discharge based on the initiation of her separation during her first 180 days of active duty service. While there are exceptions to this policy, the Board found no extraordinary circumstance with Petitioner's record to merit such an exception. Further, the Board noted Petitioner's misconduct and determined her assigned reentry code remains appropriate.

In view of the foregoing, the Board directs the following partial corrective action.

RECOMMENDATION:

That Petitioner's record be corrected to show that, on 10 April 2003, her narrative reason for separation was "Secretarial Authority," SPD code was "JFF," and her separation authority was "MILPERSMAN 1910-164".

Petitioner be issued a new DD Form 214 reflecting the corrections.

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

That no further changes be made to the record.

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.

11/5/2022

[REDACTED]