



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

█
Docket No. 7432-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
USN, █

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (DADT Repeal)
(d) SECDEF Memo of 3 Sep 14 (Hagel Memo)
(e) PDUSD Memo of 24 Feb 16 (Carson Memo)
(f) USD Memo of 25 Aug 17 (Kurta Memo)
(g) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

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 her naval record be corrected by upgrading the characterization of service, removing the separation reason and updating the separation/reentry code on her Certificate of Release or Discharge from Active Duty (DD Form 214).
2. The Board consisting of █, and █ reviewed Petitioner's allegation of injustice on 20 March 2023 and, pursuant to its regulations, determined the corrective action indicated below should be taken. Documentary material considered by the Board included Petitioner's application, relevant portions of her naval record, applicable statutes, regulations, and policies, to include references (b) – (g). Additionally, the Board considered the advisory opinion (AO) furnished by qualified mental health provider, which was previously provided to Petitioner and her rebuttal.
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, the statute of limitation was waived in accordance with the Kurta Memo.

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- c. Petitioner enlisted in the Navy and began a period of active duty on 17 September 1981.
- d. On 5 October 1982, she received nonjudicial punishment for a two-day period of unauthorized absence (UA).
- e. In December 1982, the Naval Investigative Service opened an investigation surrounding the discovery of a spiral notebook that indicated Petitioner and two other Sailors were homosexual.
- f. On 8 March 1983, Petitioner was notified of pending administrative separation by reason of homosexuality due to her statement of being a homosexual. She elected her right to consult with military counsel and have her case heard before an administrative discharge board (ADB). On 11 April 1983, the ADB was held and recommended Petitioner be discharged with an honorable characterization of service by reason of homosexuality. On 19 April 1983, Petitioner's commanding officer concurred with the ADB's recommendation that Petitioner receive a honorable discharge.
- g. On 23 May 1983, the separation authority directed Petitioner be discharge with either an honorable or general under honorable conditions characterization as warranted per her service record.
- h. Petitioner's enlisted service record indicates two annual military behavior marks, a 3.0 and a 2.6 (given one month prior to her discharge). These scores resulted in Petitioner's military behavior average to be 2.8. A military behavior average of 3.0 was required for an honorable character of service.
- i. On 22 July 1983, Petitioner was discharged with an under honorable conditions (general) character of service by reason of homosexuality – engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts.
- j. Petitioner contends she incurred post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and other mental health concerns (MHC) during military service. Specifically, she incurred depression from the stigma associated with her separation paperwork as well as post-service employment difficulties due to the nature of her discharge. She further asserts the repeal of don't ask, don't tell empowered her to submit her application to this Board.
- k. For purposes of clemency consideration, Petitioner provided official military personnel file (OMPF) and department of veterans affairs (VA) documents, the latter indicating she was granted VA service connected disability for a head injury she suffered during service.
- l. Reference (c) sets forth the Department of the Defense'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 guidance to grant requests to change the characterization of service to "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," and reenlistment code to "RE-1J," when the original

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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.

m. In connection with Petitioner's assertion that she suffered from PTSD, TBI, and other MHCs, a qualified mental health professional reviewed her request for correction to her record and provided the Board with an AO. The AO stated in pertinent part:

There is evidence that she incurred a head injury during military service, for which the VA has granted service connection. There is no evidence of a diagnosis of PTSD. There is post-service evidence of a diagnosis of another mental health condition that has not been granted service connection. Unfortunately, available records are not sufficiently detailed to establish a nexus with the circumstances of her separation. The evidence indicates the Petitioner was feeling discouraged regarding a cancellation of additional schooling due to lack of available funds and wrote some statements in a notebook which were later found and resulted in separation for homosexuality. It is difficult to attribute this behavior to symptoms of TBI or PTSD. Additional records (e.g., complete VA mental health records, including the Compensation and Pension Examination, describing the Petitioner's diagnosis, symptoms, and their specific link to her misconduct) may aid in rendering an alternate opinion.

The AO concluded, "based on the available evidence, it is my considered clinical opinion there is evidence of TBI in the service record from the VA. There is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence the circumstances of her separation could be attributed to TBI or another mental health condition."

n. On 10 March 2023, the Board received Petitioner's rebuttal in response to the AO in the form of a statement, DD Form 214, documents from her administrative hearing, and a VA medical opinion (compensation & pension examination). The statement expounds on her aforementioned contentions and their negative impact to her post-naval career.

o. On 10 March 2023, a qualified mental health professional reviewed the additional documents submitted in rebuttal to the original AO and determined the opinion and conclusion of said AO remain unchanged.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board concludes Petitioner's request warrants relief.

The Board acknowledged and considered Petitioner's assertions of PTSD, TBI, and a MHC, but noted her record supports that she was discharged solely because of her sexuality. Although, her record contained one incident of minor misconduct, specifically her two-day period of UA, this incident was separate and not related to her reason for separation and not considered an aggravating factor. Therefore, the Board determined Petitioner merits full relief.

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

RECOMMENDATION:

Petitioner be issued a new DD Form 214 indicating the characterization of service as “Honorable,” narrative reason for separation as “Secretary Plenary Authority,” separation code as “JFF,” separation authority as “MILPERSMAN 3630900,” and reentry code as “RE-1”.

That Petitioner be issued an honorable discharge certificate.

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 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/30/2023

[REDACTED]

Executive Director

[REDACTED]