



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

██████████
Docket No: 7754-22

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
██████████

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 upgrade his character of service to honorable. Enclosures (1) and (2) apply.

2. The Board consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 9 November 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, to include references (b) and (c).

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 Marine Corps and began active service on 25 July 2005. On 28 November 2006, Petitioner made a written statement concerning his sexual orientation during the course of an investigation. On 20 December 2006, Petitioner was notified of the initiation of administrative separation proceedings by reason of convenience of the government due to

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homosexual conduct, at which point, he waived his right to consult with counsel, and a hearing before an administrative discharge board (ADB). On the same day, Petitioner's commanding officer recommended separation. On 22 February 2007, the separation authority directed Petitioner's discharge.

d. On 23 March 2007, Petitioner was discharged with a general (under honorable conditions) character of service by reason of homosexual admission.

e. At the time of Petitioner's discharge, his conduct average in service was 4.4. The minimum conduct average for an honorable characterization of service was 4.0.

f. 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.

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. The Board noted that he was separated solely for his sexual orientation. Additionally, there was no misconduct in Petitioner's record and his conduct average was sufficient for an honorable characterization of service. As a matter of justice the Board determined Petitioner character of service should be upgraded from general to honorable.

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating an "honorable" character of service, "secretarial authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF1" separation code, and "MARCORSEPMAN 6214" separation authority.

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. 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

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[REDACTED]

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.

11/28/2022

[REDACTED]

Executive Director

[REDACTED]