



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

█
Docket No. 8280-22
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 his record be changed per reference (c). Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 17 April 2023 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 the references.

3. 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 waive the statute of limitations and review the application on its merits. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Petitioner enlisted in the Navy and entered active duty on 4 June 1964. On 23 September 1965, Petitioner received a medical evaluation from the Neuropsychiatric Clinic and was diagnosed with a sexual deviation - homosexuality. On 10 October 1965, Petitioner received non-judicial punishment (NJP) for absence from appointed place of duty. On 20 October 1965, Petitioner made a written statement admitting to his involvement in homosexual acts while serving in the Navy, which was confirmed by a polygraph test. Subsequently, Petitioner was notified of pending administrative separation action by reason of homosexual conduct. After waiving his procedural rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA), recommending his discharge by reason of homosexual involvement with an Other Than Honorable (OTH) characterization of service. The SA agreed with the CO's recommendation and directed an OTH characterization of service. On 1 December 1965, Petitioner was discharged with an OTH characterization of service by reason of unfitness due to his homosexual conduct.

b. Petitioner contends that his discharge was based solely on his sexual preference.

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c. 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 references (b) and (c), the Board concludes that Petitioner's request warrants relief. In this regard, the Board noted that Petitioner was separated based solely on his homosexual acts. Therefore, while the Board noted the minor misconduct in Petitioner's record, they concluded he was entitled to full relief under reference (c).

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

RECOMMENDATION

That Petitioner's record be corrected to show that, on 1 December 1965, his characterization of service was "Honorable," his narrative reason for separation and code was "Other Good and sufficient reasons (non-derogatory) when determined by proper authority – 21L," reenlistment code was "RE-1," and his separation authority was "Art C-10306 BuPers Manual."

That Petitioner be issued a new DD Form 214 and discharge certificate.

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.

4/27/2023

