



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

█  
Docket No. 8422-22  
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 (Correction of Military Records Following Repeal of 10 U.S.C. 654)  
(d) USECDEF Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

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.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegation of injustice on 27 February 2023 and, pursuant to its regulations, determined 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, and applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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 Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. During Petitioner's enlistment processing she disclosed a prior use of marijuana and was granted an enlistment waiver. Petitioner enlisted in the Navy and began a period of active duty on 27 June 2000. In June 2002, her urine tested positive for THC (tetrahydrocannabinol), the

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chemical compound in cannabis associated with psychoactive effects. On 12 November 2002, a substance abuse screening documents Petitioner did not meet the criteria for substance dependence or abuse and recommended she be separated from the Navy. On 20 November 2002, Petitioner was notified of her pending administrative separation by reason of drug abuse, at which time she waived her right to consult with military counsel and to have her case heard before an administrative discharge board. On 22 November 2002, Petitioner received nonjudicial punishment (NJP) for the aforementioned offense. Her commanding officer recommended to the separation authority (SA) that she be discharged with an Other Than Honorable (OTH) characterization of service. On 2 January 2003, the SA agreed and directed she be discharged with an OTH due to drug abuse. On 3 February 2003, Petitioner was so discharged.

c. Petitioner contends she excelled in the Navy but, as a result of her sexual orientation, she began experiencing anxiety and stress once she learned it was illegal to be "LGBTQ" in the military. As a result, she states she used marijuana as a coping mechanism and was discharged.

d. For purposes of clemency consideration, Petitioner provided advocacy letters, college degrees, official military personnel file (OMPF), and other documents capturing her post-service accomplishments.

e. 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 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 (d), the Board concludes Petitioner's request warrants relief.

In making this finding, the Board noted Petitioner's record documents that she was not discharged on the basis of her homosexuality. Further, the Board considered that her record also contains the aggravating factor of her drug related misconduct. Therefore, the Board determined relief under reference (c) was not appropriate.

However, upon review of Petitioner's record holistically, considering her post-service accomplishments, the Board concluded, purely as a matter of clemency and equity, it was in the interest of justice to upgrade Petitioner's characterization to General (Under Honorable Conditions) and to change her narrative reason for separation to Secretarial Authority with associated changes to her record.

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USN, [REDACTED]

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of her military record even under the liberal consideration standards for mental health conditions, and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Ultimately, the Board concluded that any injustice in Petitioner's record was adequately addressed by the recommended corrective action and no further relief was warranted.

RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 indicating her characterization of service as "General (Under Honorable Conditions)," narrative reason for separation as "Secretarial Authority," separation code as "JFF," separation authority as "MILPERSMAN 1910-164", and reentry code as "RE-1J."

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.

3/21/2023

