



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

██████████  
Docket No. 9252-22  
Ref: Signature date

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

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

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 characterization of service "Other Than Honorable (OTH)", narrative reason for separation "Homosexual Acts", separation code "HRA", and separation authority "MILPERSMAN 1910-148" be changed per reference (b). He also implied and requested that his reenlistment code "RE-4" be changed. Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 4 January 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. 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. After a period of honorable service, Petitioner reenlisted in the Navy on 21 November 2002. On 12 December 2002, Petitioner received non-judicial punishment (NJP) for committing sodomy with another Sailor and disorderly conduct. Subsequently, Petitioner was notified of pending administrative separation action by reason of misconduct (Homosexual Acts). After waiving his

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

procedural rights, Petitioner's commanding officer (CO) forwarded his package to the separation authority (SA), recommending his discharge by reason of misconduct (Homosexual Acts) with a General (Under Honorable Conditions) characterization of service. The SA disagreed with the CO's recommendation and directed an Other Than Honorable (OTH) characterization of service. On 12 March 2003, Petitioner was discharged with an OTH characterization of service by reason of misconduct (Homosexual Acts).

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

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 reenry 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 relief. In this regard, the Board noted that Petitioner was separated based solely on his homosexual acts despite his other misconduct. Therefore, while the Board noted the aggravating factors of misconduct in Petitioner record, they concluded relief in the form of changes to his characterization of service, narrative reason for separation, separation code, separation authority and reenlistment code was 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 12 March 2003, his characterization of service was "Honorable", his narrative reason for separation was "Secretarial Authority," reenlistment code was "RE-1J," SPD code was "JFF," and his separation authority was "MILPERSMAN 1910-164."

That Petitioner be issued a new DD Form 214 and a 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

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

corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

1/20/2023

[REDACTED]

Executive Director

[REDACTED]