



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

██████████
Docket No. 9455-22
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,
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
(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 her naval record be corrected to upgrade her character of service to Honorable in accordance with reference (b) and (c). Enclosure (2) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 20 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, 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.

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 Navy and began a period of active service on 19 October 1999.

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XXX-XX-[REDACTED]

d. A report of investigation was initiated due to several females, including the Petitioner, complaining of inappropriate conduct was committed in the Female berthing area. It was determined Petitioner was not recommended for non-judicial punishment based on her conduct with another Marine. However, based on Petitioner's homosexual conduct she was recommended for administrative separation. On 19 March 2001, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct, at which point, she waived her right to consult with counsel, and a hearing before an administrative discharge board (ADB). On 4 April 2001, Petitioner's commanding officer recommended Petitioner's separation with a General (Under Honorable Conditions). However, the separation authority directed Petitioner's discharge with an Other Than Honorable (OTH) characterization. On 26 April 2001, Petitioner was discharged with an OTH character of service by reason of homosexual admission. She was issued a RE-4 reentry code and a SPD code of HRA.

e. 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 determined Petitioner was discharged solely based on her homosexual conduct and not for her misconduct. Further, the Board found that her misconduct was minor in nature. Therefore, the Board determined Petitioner was eligible for full relief under reference (c).

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

RECOMMENDATION:

That Petitioner's be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating "Honorable" character of service, "Secretarial Authority" narrative reason for separation, "RE-1J" reenlistment code, "JFF" separation code, and "MILPERSMAN 1910-164" separation authority.

Petitioner be issued an Honorable discharge certificate.

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further changes be made to the 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.

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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.

2/10/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]