



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

██████████
Docket No. 0870-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████ RMER 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 his naval record be corrected to upgrade the character of service in accordance with reference (b) and (c). Enclosure (2) applies.

2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error and injustice on 21 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, and 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 Navy and began a period of active service on 1 April 2004. On 1 October 2008, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct, at which point, he elected his right to consult with counsel, and a hearing of his case before an administrative discharge board (ADB). On 17 November

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[REDACTED]

2008, an ADB convened and recommended Petitioner's separation from naval service with a General (Under Honorable Conditions) (GEN) character of service as a result of homosexual conduct. Subsequently, Petitioner's commanding officer recommended his separation from naval service with an Other Than Honorable (OTH) character of service. Ultimately, Petitioner was discharged on 22 May 2006, with a GEN character of service by reason of homosexual conduct.

d. Post-discharge, Petitioner filed an application with the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 14 April 2011, after determining his discharge was proper as issued.

d. 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 determined that full relief is warranted. The Board noted Petitioner was discharged based solely on his homosexual conduct and had no aggravating factors in his record.

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

RECOMMENDATION:

Petitioner be issued a new DD Form 214 and new discharge certificate indicating a characterization of service of "Honorable," narrative reason for separation of "Secretarial Authority," separation code of "JFF," separation authority of "MILPERSMAN 1910-164", and reentry code of "RE-1J."

Further, 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 having assured compliance with its provisions, it is hereby announced that the foregoing

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

5/9/2023

[REDACTED]

Executive Director

[REDACTED]