



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

■
Docket No. 1646-23

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 Records Following Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 w/attachments
(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 a change to his narrative reason for separation and reenlistment code.

2. The Board, consisting of ■■■■■■■■■■ and ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 29 March 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 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 duty on 24 September 1979. Petitioner completed this enlistment with an Honorable characterization of service on 15 June 1983. On 16 June 1983, Petitioner reenlisted and completed this enlistment on 19 October 1985 with an Honorable characterization of service. On 20 October 1985, Petitioner again reenlisted and completed this enlistment on 7 May 1991 with an Honorable characterization of service. Petitioner again immediately reenlisted on 8 May 1991.

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d. On 1 October 1992, Petitioner was notified that he was being recommended for administrative separation from the Navy by reason of homosexuality, defective enlistment and Induction due to fraudulent entry into the naval service as evidenced by engaging in, attempting to engage in, or soliciting another to engage in a homosexual act or acts, and defective enlistment and induction due to fraudulent entry into the naval service by failing to reveal civilian involvement. Petitioner was advised of his procedural rights; Petitioner elected his procedural right to consult with military counsel, and to present his case to an administrative discharge board (ADB). On 23 October 1992, an ADB convened, and found that based on the preponderance of the evidence, Petitioner engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts and recommended administrative discharge from the naval service with an Honorable characterization of service.

e. Petitioner's commanding officer (CO) forwarded his administrative separation package to the separation authority (SA) recommending Petitioner's administrative discharge from the Navy with an Honorable characterization of service.

f. The SA directed Petitioner's administrative discharged from the Navy with an Honorable characterization of service by reason of homosexuality. On or about 23 July 1993, Petitioner was discharged from the Navy with an Honorable characterization of service by reason of homosexuality. Petitioner's last DD Form 214 was not located in his record. However, Petitioner notes on his application his discharge was effective 23 July 1993.

g. Petitioner asserts that the laws have changed.

h. 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 the law and policy established in references (b) and (c), the Board determined that Petitioner's request warrants relief.

The Board found no error in Petitioner's administrative discharge processing. However, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with references (b) and (c), and concluded that the mitigating circumstances in Petitioner's case support relief.

The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality with no evidence of any aggravating factors. Therefore, the Board concluded that the record should be changed to reflect a less stigmatizing reason for separation by changing the narrative reason for separation, reenlistment code, SPD code, and separation authority to reflect a Secretarial Authority discharge.

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In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214) reflecting that, for Petitioner's last period of enlistment ending on or about 23 July 1993, his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

That no further correction action be taken on Petitioner's naval record.

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

4. It is certified that 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.

4/17/2023

[REDACTED]

Executive Director

[REDACTED]