



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

█
Docket No. 2344-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
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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 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 his naval record be corrected in accordance with references (b) and (c).

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 2 October 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 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. 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. Petitioner enlisted in the Navy and began a period of active duty on 29 November 2004. On 3 March 2005, Petitioner received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA). On 3 March 2005, Petitioner was counseled for his previous UA violations leading to NJP. Petitioner was advised that failure to take corrective action could result in administrative separation. On 20 June 2005, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct as evidence by his statement that he is homosexual or bisexual. Subsequently, Petitioner decided to waive his

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procedural rights. On 23 June 2005, the Petitioner's commanding officer recommended that he be administratively separated from the Navy with a General (Under Honorable Conditions) discharge characterization of service by reason of homosexuality. On 29 June 2005, the separation authority approved and ordered that Petitioner be administratively separated with a General (Under Honorable Conditions) characterization by reason of homosexuality. On 25 July 2005, Petitioner was so discharged.

c. Petitioner states his discharge has ruined many opportunities in his life and has been an embarrassment to him.

d. 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 references (b) through (c), the Board concludes Petitioner's request warrants partial relief. While the Board noted his misconduct, they concluded Petitioner's record supports that he was solely discharged on the basis of his homosexual conduct. Therefore, the Board determined Petitioner is entitled to relief under reference (c). However, the Board noted the aggravating factor of misconduct in the Petitioner's naval record and determined his reentry code remains appropriate.

RECOMMENDATION:

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

Petitioner be issued a new DD Form 214 and new discharge certificate changing his characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," separation authority to "MILPERSMAN 1910-164," and SPD code to "JFF."

No further changes be made to Petitioner's record.

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

5. 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.

6. 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

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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.

10/17/2023

