



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

[REDACTED]
Docket No. 3393-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] [REDACTED],
USN, XXX-XX-[REDACTED]

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)
(d) USECDEF Memo of 25 July 2018 "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

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, narrative reason for separation change, separation code, and reentry code all be changed consistent with reference (c). He also requested that his discharge date be changed and that it reflect "retired" on his DD Form 214.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 24 May 2023, and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and applicable statutes, regulations, and policies.

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.

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c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 8 July 1974. He served Honorably and reenlisted on three occasions while continuing his active duty service. His last enlistment commenced on 6 May 1988.

d. On 18 May 1993, Petitioner submitted his application for transfer to the Fleet Reserve. On 17 February 1994, that request was approved with an effective date of 31 July 1994.

e. Unfortunately, the documents pertinent to his administrative separation was not in his official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214), reveals he was separated from the Navy, on 3 March 1994, with a Honorable characterization of service, his narrative reason for separation is "Homosexual Admission," his separation code is "HRB," and his reenlistment code is "RE-4."

f. 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 narrative reason for separation 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, the Board concludes Petitioner's request warrants relief. The Board reviewed the application under the guidance provided in references (b) through (d).

The Board noted Petitioner was discharged based solely on his sexual orientation and was otherwise an excellent service member who was approved for retirement based on his 20 years of Honorable service. At the time of discharge, Petitioner had served honorably for 19 years, 7 months and 23 days. The Board concluded that if not for the DADT policy, Petitioner would have fulfilled his obligation and retired from the naval service after serving honorably for 20 years. Therefore, in the spirit of references (c) and (d), the Board found that it was in the interests of justice to set aside Petitioner's administrative separation, change his release from active duty date to reflect 31 July 1994, and transfer him to the retired list.

RECOMMENDATION:

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

That Petitioner's administrative separation from the Navy on 3 March 1994 be set aside.

That Petitioner be issued a new DD Form 214 indicating that he was released from active duty

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on 31 July 1994, with a characterization of service of "Honorable," narrative reason for separation of "Sufficient Service for Retirement," SPD code of "NBD," reentry code of "RE-2," and separation authority of "MILPERSMAN 3855180."

No further changes be made to Petitioner's record.

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

6/7/2023

[REDACTED]