



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

██████████  
Docket No. 3725-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
██████████

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 references (b) and (c). Enclosure (2) applies.

2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error and injustice on 19 May 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 18 February 1993. Petitioner received non-judicial punishment (NJP), on 9 March 1995, for disrespect toward a senior petty officer. He was later counseled regarding an unauthorized absence and dereliction of duty on 23 June 1995.

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d. Petitioner reenlisted in the Navy for a period of 3 years and commenced his second period of active duty on 19 December 1996. On 10 July 1997, he was counseled for making a false official statement and assault. In July 1997, Petitioner also received two NJPs for false official statement, assault, unauthorized absence, and breaking restriction. Ultimately, Petitioner was discharge with an Other Than Honorable (OTH) character of service for misconduct by reason of the commission of a serious offense, and issued an RE-4 reentry code. Upon his discharge, Petitioner was issued a DD Form 214 that did not contain his first period of continuous Honorable service.

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.

f. Petitioner contends, in part, he has a spotless record, and he was discharged unjustly as a result of the DADT policy. He alleges that he suffered unwanted sexual advances from an E-7 and was unjustly charged for misconduct after he refused the advances. Petitioner asserts he is a homosexual and was denied the opportunity to advance in the Navy because of his sexual orientation.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. Specifically, as discussed previously, the Board noted Petitioner's record contains an administrative error. Block 18 of Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) does not indicate his continuous period of Honorable service from 18 February 1993 to 18 December 1996.

Notwithstanding the recommended corrective action below, the Board determined insufficient evidence exists to grant Petitioner the relief he requested. The Board found no evidence that Petitioner was discharged based solely on DADT or a similar policy. Rather, his record shows he was discharged for commission of a serious offense based on several offenses documented by his NJP of 18 July 1997. While the Board took into consideration Petitioner's allegations of unwanted sexual advances and retaliation, they were unable to find any evidence in his record to substantiate the allegations and he provided no evidence with his application. Therefore, the Board determined he was not entitled to relief under reference (c). Accordingly, given the totality of the circumstances, the Board determined that Petitioner does not merit any additional relief beyond the recommended corrective action.

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

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RECOMMENDATION:

Petitioner be issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) indicating in Block 18 his continuous period of Honorable service from 18 February 1993 to 18 December 1996.

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 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

