



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

██████████
Docket No. 3765-23
Ref: Signature date

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

Subj: REVIEW 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 with attachments
(2) Case summary
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that her record be changed per reference (c). Enclosures (1) through (3) apply.

2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error and injustice on 15 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, applicable statutes, regulations, and policies to include the references.

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 waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy and entered active duty on 5 September 2002. On 19 September 2005, Petitioner made a written statement admitting to homosexual/bisexual tendencies. On 24 October 2005, Petitioner received non-judicial punishment (NJP) for making a false official statement and indecent exposure. Subsequently, Petitioner was notified of pending administrative separation action by reason of misconduct due to commission of a serious offense/homosexuality. After waiving her procedural rights, Petitioner's commanding officer (CO) forwarded her package to the separation authority (SA), recommending her discharge with an

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[REDACTED]

Other Than Honorable (OTH) characterization of service. The SA agreed with the CO's recommendation and directed her discharge for commission of a serious offense with an OTH characterization of service. On 21 November 2005, Petitioner was so discharged

d. Petitioner contends that her discharge was based solely on her sexual preference.

e. 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 characterization of service to "Honorable," 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, and especially in light of references (b) and (c), the Board concludes that Petitioner's request warrants relief.

While the Board noted the aggravating factors of misconduct in Petitioner's record, they found that the misconduct that resulted in a NJP was not the catalyst for her administrative separation processing. In making this finding, the Board carefully considered the nature of her misconduct and the punishment imposed. The Board noted that Petitioner was assigned extra duties, reduction in rate, and forfeitures but the forfeitures were suspended. This led the Board to conclude her command processed her for administrative separation based on her admission of homosexual tendencies and included her misconduct based on the MILPERSMAN requirement to process for all known bases. Therefore, while the Board noted the misconduct in Petitioner's record, they concluded she was entitled to full relief under reference (c).

In view of the foregoing, the Board directs the following partial corrective action.

RECOMMENDATION:

That Petitioner's record be corrected to show that, on 21 November 2005, her characterization of service was "Honorable," her narrative reason for separation was "Secretarial Authority," reenlistment code was "RE-1J," SPD code was "JFF," and her separation authority was "MILPERSMAN 1910-164."

That Petitioner be issued a new DD Form 214 and discharge certificate.

That no further changes be made to the record.

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

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[REDACTED]

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.

6/1/2023

