



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

██████████
Docket No. 4035-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████,
USNR, 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 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 his record be corrected consistent with references (b) and (c).

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error on 1 December 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, 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, the statute of limitation was waived in the interests of justice.

c. Petitioner enlisted in the U.S. Naval Reserve and began a period of reserve duty on 12 October 1967. On 2 December 1969, he made a voluntary statement of homosexual tendencies to a military medical provider. On 9 December 1969, after signing a Military Suspect's Acknowledgment & Waiver of Rights, he made a voluntary statement to the Naval

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Investigative Service (NIS), again stating his homosexual tendencies. On 23 February 1970, he was notified of administrative board procedures, and waived his rights in the process. On 25 March 1973, his Commanding Officer recommended he be separated with an undesirable discharge due to unfitness, (homosexual acts). On 13 April 1970, he received an undesirable discharge, by reason of unfitness, Code 253 – Class II homosexual.

d. Petitioner has no history of misconduct in his official naval record, and earned military bearing and overall trait averages of 3.3/3.2 during his service; scores which qualified for a fully Honorable (HON) discharge.

e. Petitioner contends: (1) he was wrongfully discharged for his sexual orientation, (2) he was sexually assaulted and tried talking to a chaplain about it, but was sent home, and (3) he was thus disgraced before his family.

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 normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," separation 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) and (c).

The Board noted Petitioner was discharged based solely on his admission of homosexuality tendencies, and found no evidence of aggravating factors in his record. Therefore, the Board found that it was in the interests of justice to upgrade his characterization of service to Honorable and change his narrative reason for separation, separation code, separation authority, and reentry code consistent with the guidance provided in reference (c).

While the Board noted the Petitioner's claim of sexual assault, they determined relief was warranted under reference (c), and made no findings regarding this claim.

RECOMMENDATION:

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

A new Administrative Remarks Page be added to Petitioner's record indicating he was discharged on 13 April 1970, with a characterization of service of "Honorable," a narrative reason for discharge of "Secretarial Authority," authority of "MILPERSMAN 1910-164," separation code "JFF," and a reentry code of "RE-1J."

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

4. It is certified a quorum was present at the Board's review and deliberations, and 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.

12/25/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]