



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

[REDACTED]
Docket No. 4177-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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 change his reenry code in accordance with reference (b) and (c). Enclosure (2) applies.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 26 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 completed an Honorable period of service from 19 June 1989 to 15 August 1996. Petitioner reenlisted and commenced a second period of active service on 6 January 1998. On 18 May 1998, Petitioner received non-judicial punishment (NJP) for unauthorized absence (UA) from 16 March 1998 until his surrender on 2 April 1998.

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[REDACTED]

d. On 22 May 1998, Petitioner submitted a statement with the admission to the commission of homosexual acts prior to his enlistment, and while on active service. As a result of the foregoing, on 23 May 1998, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexual conduct. He waived his right to consult with counsel, and a hearing of his case before an administrative discharge board (ADB). Subsequently, Petitioner's commanding officer recommended his separation from naval service by reason of homosexual conduct. Ultimately, Petitioner was discharged on 27 May 1998, with a General (Under Honorable Conditions) character of service by reason of homosexual conduct admission.

e. Post-discharge, Petitioner filed an application with the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 10 January 2000, after determining his discharge was proper as issued.

f. Reference (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.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board determined that full relief is warranted. The Board noted the NJP in Petitioner's record but concluded it was not an aggravating factor based on the relatively minor nature of his offense. Further, the Board noted Petitioner overall conduct was Honorable and he was discharged based solely on his homosexual conduct, despite the existence of the misconduct that formed the basis for the NJP.

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

RECOMMENDATION:

Petitioner be issued a new DD Form 214 indicating a characterization of service of "Honorable," narrative reason for separation of "Secretarial Authority," separation code of "JFF," separation authority of "MILPERSMAN 1910-164", and reentry code of "RE-1J."

Further, Petitioner be issued an Honorable discharge certificate.

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.

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[REDACTED]

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.

6/13/2023

