



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

██████████  
Docket No. 4667-23  
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF FORMER MEMBER ██████████,  
USN, ██████████

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 10 U.S.C. 654)  
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Corrections of Naval Records (Board), requesting that her naval record be corrected to upgrade her characterization of service and make other conforming changes to her DD Form 214 to reflect current military directives and policy.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 15 September 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), (c), and (d).

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 U.S. Navy and began a period of active duty on 25 May 1979. On 11 September 1979, Petitioner reported for duty on board ██████████  
██████████

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USN, [REDACTED]

d. On 11 March 1980, Petitioner received non-judicial punishment (NJP) for wearing her complete dungaree uniform off base. Petitioner did not appeal her NJP.

e. On 5 May 1981, Petitioner's command notified her of administrative separation proceedings by reason of homosexuality due to her in-service participation in homosexual acts. The Petitioner consulted with counsel and elected her right to request an administrative separation board.

f. On 12 May 1981, Petitioner entered into a Memorandum of Agreement (MOA) with her commanding officer (CO) wherein she agreed to waive her right to an administrative separation board in exchange for her CO to recommend that she receive a General (Under Honorable Conditions) (GEN) characterization of service. Petitioner understood that if the MOA was accepted and the Chief of Naval Personnel (CNP) authorized her discharge, such discharge would be with a GEN characterization.

g. On 15 May 1981, Petitioner requested an immediate discharge in lieu of waiting for final action to be taken on her administrative discharge separation package. On 19 May 1981, Petitioner's CO recommended to Commander, Naval Military Personnel Command (NMPC-83) that she be discharged with a GEN characterization of service in accordance with the MOA.

h. Ultimately, on 22 May 1981, the Petitioner was discharged from the Navy for misconduct due to homosexual acts. On or about 15 June 1981, CNP directed that Petitioner be separated with a "type warranted by service record" discharge characterization by reason of homosexuality with an RE-4 reentry code.

i. On 2 March 2017, NPC reissued Petitioner's DD Form 214 to reflect a GEN characterization of service. However, the separation authority, narrative reason, and separation code on Petitioner's DD Form 214 still referred to misconduct due to homosexual acts.

j. Petitioner's overall conduct trait average assigned on her periodic performance evaluations during her enlistment was approximately 3.133. Navy regulations in place at the time of her discharge recommended a minimum trait average of 3.0 in conduct (proper military behavior), for a fully Honorable characterization of service.

k. In short, Petitioner contended, in part, that her discharge was an injustice because it was based on the pre-"don't ask, don't tell" (DADT) policy without any aggravating factors. She also contended that her discharge was an injustice because her offenses are no longer considered misconduct under today's UCMJ. Petitioner further argued that it was both an error to have characterized her service with an OTH discharge, and unjust for Petitioner to continue to be burdened by such characterization in light of the DADT repeal. Petitioner contended that changes in Navy policy and Wilkie Memo directive provides the Navy with broad discretion to correct Petitioner's injustice.

l. 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"

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(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" or GEN, the narrative reason for discharge to "Secretarial Authority," the separation code to "JFF," the reentry code to "RE-1J," and other conforming changes to the DD Form 214 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 in light of references (b), (c), and (d), the Board concludes that Petitioner's request warrants relief. The Board noted Petitioner's record supports that she was administratively discharged due to her homosexuality based on pre-DADT policy, and that there no longer were aggravating factors in her service record given recent UCMJ and policy changes.

Accordingly, the Board concluded that certain remedial changes were warranted to the Petitioner's characterization of service, narrative reason for separation, separation authority, separation code, and reentry code to conform with current military directives and policy.

Additionally, in light of the Wilkie Memo, the Board concluded after reviewing the record holistically, and given the totality of the circumstances that a discharge upgrade to Honorable is appropriate at this time.

#### RECOMMENDATION:

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

That Petitioner's character of service be changed to "Honorable," the narrative reason for separation should be changed to "Secretarial Authority," the separation authority be changed to "MILPERSMAN 1910-164," the separation code be changed to "JFF," and the reentry code be changed to "RE-1J."

It is further directed that Petitioner be issued a new DD Form 214.

It is further directed that Petitioner be issued a new 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.

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 Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing

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

9/19/2023

