



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

█  
Docket No. 5978-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █  
XXX XX █ USMC

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)  
(d) USECDEF Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

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 that his naval record be corrected by upgrading his characterization of service.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 23 October 2023 and, pursuant to its regulations, determined 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) through (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. Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits.

b. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 12 February 1968. On 11 July 1968, Petitioner made a statement admitting to homosexuality. He commenced a period of unauthorized absence (UA) on 22 July 1968, that lasted 16 days. On 20 August 1968, he received nonjudicial punishment (NJP) for the aforementioned UA and

failing to obey an order. On 13 September 1968, Petitioner was notified of his pending administrative processing by reason of unfitness for homosexual activities, at which time he waived his right to consult with counsel and to have his case heard before an administrative discharge board. On 24 September 1968, the separation authority directed he be discharged with an Other Than Honorable characterization (OTH) by reason of unfitness. Petitioner subsequently incurred a seven-day period of UA and, on 12 November 1968, he was discharged with an OTH for unfitness (homosexuality).

c. Petitioner asserts, he regrets his actions, he has been an outstanding person, role model, father of three, worked hard since his retirement, and is now trying to correct his past as his discharged has made his life a struggle.

d. Reference (c) sets forth the Department of the Defense'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 guidance to grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," SPD code to "JFF1," and reenlistment 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.

e. For purposes of clemency and equity consideration, Petitioner provided a copy of his DD Form 214 and official military personnel file medical documents.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and in light of references (b) through (d), the Board concludes that Petitioner's request warrants relief. The Board noted Petitioner's record supports that at the time he was administratively discharged solely due to homosexuality in November 1968. Therefore, the Board concluded Petitioner was entitled to relief under reference (c). 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 all current military directives and policy.

Notwithstanding the recommended corrective action below, the Board was not willing to grant an upgrade to an Honorable discharge. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with reference (d). After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant an Honorable characterization of service. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP and subsequent UA, outweighed these mitigating factors. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. Even in light of reference (d) and

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reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting Petitioner an Honorable characterization of service or granting an Honorable characterization as a matter of clemency or equity.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

That Petitioner's character of service be changed to "General (Under Honorable Conditions)," the narrative reason for separation should be changed to "Convenience of the Government: Other good and sufficient reason as determined by the SECNAV," the separation authority be changed to "MARCORSEPMAN 13261.1f," the separation code should be "JFF1," and the reentry code be changed to "RE-1J."

Petitioner shall be issued a new DD Form 214, Certificate of Release or Discharge from Active Duty.

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.

11/6/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]