



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

█
Docket No. 6704-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
█, USN, 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 that his naval record be corrected consistent with references (b) and (c), reinstating his GI Bill, reinstating his Navy college fund, and to not include any remarks indicating that a correction was made to his record.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 16 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 included 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. Petitioner enlisted in the Navy and began a period of active duty on 4 September 1997. On 10 June 1999, he received nonjudicial punishment for a period of unauthorized absence. On 4 August 1999, Petitioner made a statement admitting he was bisexual. He was subsequently notified of his pending administrative processing by reason of homosexual conduct, at which time he waived his right to consult with counsel and have his case heard before an administrative discharge board. The separation authority directed Petitioner be discharged with a General

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(Under Honorable Conditions) characterization of service by reason of homosexual admission. On 17 October 2000, he was so discharged.

c. Petitioner asserts the sole reason for his discharge was his admission that he was bisexual.

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 "JFF," 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.

CONCLUSION:

Upon review and consideration of all the evidence of record, and in light of references (b) and (c), the Board concludes that Petitioner's request warrants partial relief. Specifically, the Board noted Petitioner's record supports that at the time he was administratively discharged solely due to his admission of being a bisexual. While the Board noted Petitioner's NJP, it determined this was a relatively minor offense and did not form the basis for his administrative separation processing or discharge. Accordingly, the Board determined Petitioner was entitled to full relief under reference (c).

Notwithstanding the recommended corrective action below, the Board has no authority to grant Petitioner's request to be awarded GI Bill and Navy College Fund benefits. The Board concluded those benefits fall under the statutory authority of the Department of Veterans Affairs (VA). As a result, the Board has no authority to grant Petitioner's request and recommends he contact his local VA office to determine his eligibility for those programs once his record is corrected.

Further, with regard to Petitioner's request to not include any remarks on his DD Form 214 indicating that a correction was made to his record, the Board concluded that Petitioner will be issued a new DD Form 214.

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 "Honorable," the narrative reason for separation should be changed to "Secretarial Authority," the separation authority be changed to "MILPERSMAN 3630900," the separation code be changed to "JFF," 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.

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Petitioner shall 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 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.

10/30/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]