



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

██████████
Docket No. 8980-23

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 (Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 w/ enclosures

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 discharge be corrected consistent with references (b) and (c). Enclosure (1) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 3 November 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, 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. Although Petitioner's 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 the case on its merits.

b. Petitioner enlisted in the Navy and began a period of active duty on 30 July 1981 and served without incident.

c. On 9 September 1983, Petitioner was notified of administrative board proposed action by reason of engaging in, attempting to engage in, or soliciting another to engage in homosexual acts. He requested a hearing before an administrative separation board, which ultimately found that the basis for separation had been met due to his behavior having been "openly in public view" and in a "location subject to naval control under aggravating circumstances that have an

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adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.”

d. Although Petitioner’s detailed defense counsel submitted a detailed letter of deficiency alleging procedural errors and bias, his commanding officer forwarded a recommendation concurring with the administrative board’s findings and recommendations wherein it addressed the allegations of deficiency.

e. Commander, Naval Personnel Command, approved Petitioner’s discharge via naval message, on 27 November 1983. Petitioner was discharged, on 8 December 1983, with an Other Than Honorable (OTH) characterization. His final trait average was well above that required for an Honorable discharge.

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 concluded that Petitioner’s request warrants favorable action in the form of relief.

In this regard, the Board noted that Petitioner’s separation and characterization of service was based solely on sexuality and without misconduct or aggravating factors, notwithstanding the findings made by his administrative separation board. Further, Petitioner’s in-service record of performance and conduct reflected Honorable service. Therefore, the Board determined Petitioner was entitled to full relief under reference (c).

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

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, on 8 December 1983, his “Honorable” discharge was issued under the authority of “MILPERSMAN 3630900,” for the narrative reason of separation of “Secretary Plenary Authority,” with a separation code of “JFF,” and “RE-1J” reentry code.

That Petitioner be issued an Honorable Discharge certificate.

That no further changes be made to Petitioner’s record.

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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.

11/27/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]