



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

█
Docket No. 9024-23

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, █

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 DD Form 214 be changed in light of references (b) and (c). He also requests compensatory pay and benefits. See enclosure (1).

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error on 8 November 2023, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, 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 U.S. Navy and began a period of active duty on 6 February 2001. On 30 July 2001, Petitioner submitted a letter admitting to his homosexuality.

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d. On 31 July 2001, the Petitioner was notified for separation for Homosexual Conduct and waived his right to consult with counsel and waived his right to an administrative board. The Commanding Officer (CO) directed discharge with an Entry Level characterization.

e. Petitioner's DD Form 214, reveals he was separated from the Navy, on 17 August 2001, with an Entry Level characterization of service, his narrative reason for separation is "Homosexual Conduct Admission," his separation code is "HRB," and his reenlistment code is "RE-4."

f. Petitioner contends that he was discharge simply because of his sexual orientation with no negative marks against him while he was enlisted. He also contended that he was required to write a letter admitting to his sexual orientation and was discharged because of it.

g. 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 grant requests to change the narrative reason for separation 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, the Board concludes Petitioner's request warrants partial relief.

The Board noted Petitioner was discharged based solely on his admission of homosexuality and found no evidence of aggravating factors in his record. Therefore, the Board found that it was in the interests of justice to change his narrative reason for separation, separation code, separation authority, and reentry code consistent with the guidance provided in reference (c).

The Board noted the Petitioner was still in the entry level status as he was notified for separation on the 175th day of active duty. Therefore, the Board found no error or injustice in the assignment of an uncharacterized entry level service upon Petitioner's discharge. Further, the Board found no basis or statutory authority to grant compensatory pay and compensation for his discharge.

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214, for the period ending 17 August 2001, indicating that Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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No further changes be made to Petitioner's record.

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

