



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

█  
Docket No. 9508-23  
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).

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error on 15 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.

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 20 May 1996. On 7 August 1996, Petitioner submitted a letter admitting to his bisexuality.

d. On 13 August 1996, 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) forwarded the administrative separation package to the

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],  
USN, [REDACTED]

separation authority (SA) recommending that Petitioner be administratively discharge from the Navy with an Entry Level characterization of service. The SA approved the recommendation for administrative discharge and directed Petitioner's Entry Level discharge from the Navy. On 9 September 1996, Petitioner was discharged from the Navy with an uncharacterized Entry Level separation by reason of homosexual conduct admission.

e. Petitioner contends that he was discharge simply because of his sexual orientation with no negative marks against him while he was enlisted. He also contends he has been turned down for services, grants and training through the Texas workforce commission/unemployment. He states his separation has impacted his consideration for government jobs an may impact his security clearance.

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 grant requests to upgrade characterizations of service to "Honorable," 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 reviewed the application under the guidance provided in references (b) through (d).

The Board noted Petitioner was discharged based solely on his admission 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).

Notwithstanding the recommended corrective action, the Board noted the Petitioner was still in the entry-level status when he was notified for separation, and only served 112 days on active duty. While there are exceptions to policy in cases involving misconduct or extraordinary performance, the Board determined neither exception applied in Petitioner's case. Further, the Board noted reference (c) does not direct the granting of a characterized separation for personnel in an entry-level status. Therefore, the Board found no error or injustice with Petitioner's assigned uncharacterized Entry Level separation.

#### 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 9 September 1996, indicating that Petitioner's narrative reason for separation was "Secretarial Authority," the SPD

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],  
USN, [REDACTED]

code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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.

12/5/2023

[REDACTED]