



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

[REDACTED]
Docket No. 9639-23

Ref: Signature Date

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

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

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 her naval record be corrected by changing her narrative reason for separation and separation code on her Certificate of Release or Discharge from Active Duty (DD Form 214)

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 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.

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 Navy and began a period of active duty on 28 May 1998. On 18 August 2003, Petitioner received nonjudicial punishment (NJP) for disrespect towards a superior commissioned officer and failure to obey a direct order. On 18 August 2003, Petitioner was counseled concerning his previous NJP violations and advised that failure to take corrective action could result in administrative separation. On 13 February 2004, Petitioner submitted a request for separation from service as a result of his inclinations towards

homosexuality. As a result, Petitioner was notified of the initiation of administrative separation proceedings by reason of homosexuality. The separation authority approved and ordered a General (Under Honorable Conditions) discharge characterization by reason of homosexuality and Petitioner was so discharged on 5 March 2004.

d. On 14 April 2011, the Naval Discharge Review Board (NDRB) denied the Petitioner's request for a discharge characterization upgrade.

e. Petitioner contends he reentered the Army National Guard and served his country until his retirement. Petitioner states he was made aware about the issues with his Navy discharge characterization as he was trying to apply for Post 9/11 education benefits.

f. 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 especially in light of references (b) and (c), the Board concludes Petitioner's request warrants relief. While the Board noted Petitioner's misconduct, they concluded his record supports that he was solely discharged on the basis of his homosexual admission. Therefore, the Board determined Petitioner is 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 DD Form 214 indicating his characterization of service as "Honorable," narrative reason for separation as "Secretarial Authority," the SPD code assigned as "JFF," the reenlistment code as "RE-1J," and the separation authority as "MILPERSMAN 1910-164."

That Petitioner be issued an honorable discharge certificate.

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

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.

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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.

12/7/2023

[REDACTED]