



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

█  
Docket No. 10846-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,  
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  
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his naval record be corrected by changing his record consistent with references (b) and (c) and for there to be no remarks on his DD-214 indicating that it was corrected. Enclosures (1) through (3) apply.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 26 January 2024, 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, 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 Navy and began a period of active service on 9 December 2002.

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d. On 9 February 2004, Petitioner disclosed to his chain of command that he was a homosexual and provided a signed statement indicating the same.

e. The same day, Petitioner was notified of administrative separation processing by reason of homosexual conduct with a least favorable characterization of Under Other Than Honorable (OTH). Petitioner waived his rights to consult counsel or request a hearing before an administrative board and elected to provide a statement to the separation authority. Petitioner's Commanding Officer recommended separation with an Honorable (HON) characterization of service. The separation authority directed an HON character of service due to his homosexual admission and, on 5 March 2004, he was so discharged.

f. Petitioner contends the sole reason for discharge was due to his homosexual admission, that having "homosexual conduct" on his DD Form 214 has hurt his employment opportunities and prevented him from accessing Veteran's services, that he has met the requirement for this change because there were no aggravating factors alleged in his discharge, and that remarks indicating that a correction was made to his DD Form 214 may result in inquiries.

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 normally grant requests to change the 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, and especially in light of references (b) and (c), the Board concludes Petitioner's request warrants partial relief. The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality with no aggravating factors. Therefore, the Board determined he was entitled to changes to his record consistent with reference (c).

Regarding Petitioner's request that his DD Form 214 not reflect that it has been corrected, the Board relief was not warrant. In making this finding, the Board noted that BUPERSINST 1900.8 requires a statement indicating the DD Form 214 was reissued and the fact reference (c) does not direct the omission of the change.

## RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 5 March 2004, indicating the separation authority as "MILPERSMAN 1910-164," separation code as "JFF," narrative reason for separation as "Secretarial Authority." and reenlistment code as "RE-1J."

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

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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.

2/16/2024

