



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 02678-13
12 July 2013

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his undesirable discharge be changed to honorable per reference (b). He also impliedly requested that his narrative reason for separation be "Secretarial Authority" and that his RE-4 (not recommended for retention) reenlistment code be changed.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and Exnicios, reviewed Petitioner's allegations of error and injustice on 9 July 2013 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, naval 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. Petitioner enlisted in the Navy and began a period of active duty on 28 June 1965. On 12 September 1967, he made a sworn statement admitting to being a homosexual and participating in such acts. Subsequently, he was administratively processed for separation for the good of the service to avoid trial by court-martial by reason of homosexuality. His commanding officer forwarded his case and the separation authority directed an undesirable discharge. He was so discharged on 20 November 1967.

c. Reference (b) 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 authority to grant requests to change the narrative reason for discharge to "secretarial authority", to re-characterize the discharge to general or honorable and/or request to change the reenlistment code to an immediately eligible to reenter category of "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.

d. Characterization of service is based in part on conduct marks assigned on a periodic basis. His conduct average was 3.3. At the time of his service, a conduct average of 3.0 was required for a fully honorable characterization of service.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of reference (b), the Board concludes that Petitioner's request warrants favorable action in the form of relief.

The Board concludes that based upon his record of service, the fact that there were no aggravating factors or misconduct that resulted in his discharge, that he attained the required average in conduct, and current policy as established in reference (b), that relief in the form of his characterization of service be changed to honorable, narrative reason for separation be changed to "Secretarial Authority", and reenlistment code to RE-1J. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:


a. That Petitioner's naval record be corrected to show that he received an honorable discharge vice undesirable discharge on 20 November 1967, that the narrative reason for separation was "Secretarial Authority", and reenlistment code was RE-1J. It is also directed that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

b. That a copy of this report of proceedings be filed in Petitioner's naval record.

c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 4 March 2013.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) 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.

ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
Acting Recorder

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.

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W. DEAN PFEIFFER
Executive director