



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

BJG
Docket No: 3295-13
24 February 2014

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

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

Ref: (a) 10 U.S.C. 1552
(b) SECNAVINST 1910.4B
(c) 10 U.S.C. 654 (Repeal)

Encl: (1) DD Form 149 with attachments
(2) 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 her narrative reason for separation (Unfitness) issued on 23 May 1951, be changed to "Secretarial Authority". She further requested that all references to her homosexuality in her official military file (OMPF) be removed.

2. The Board, consisting of Ms. Bianchi and Messrs. Tew and Vogt, reviewed Petitioner's allegations of error and injustice on 19 February 2014 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 2 May 1950. She was not the subject of any disciplinary action, although she was in an unauthorized absence status for eight days. She later submitted a statement admitting to participating in homosexual acts off base with two female service members after joining the service. Subsequently, she requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for unfitness (homosexual acts). Prior to submitting this request, she consulted with qualified military counsel and acknowledged the adverse consequences of receiving such a discharge. The separation authority approved her request for a UD. On 23 May 1951, she so discharged. On 17 March 1991, this Board upgraded her UD to an honorable characterization of service.

d. Reference (b) sets forth the Department of the Navy's policies, standards, and procedures for administratively separating enlisted service members due to homosexuality. Reference (c) sets forth the Department of the Navy's 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 also provides service discharge review boards with the authority to grant requests to change the narrative reason for discharge to "Secretarial Authority" 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 reference (c), the Board concludes that Petitioner's request warrants favorable action in the form of relief.

The Board concludes that based upon her overall record of service and the Navy's policy as established in reference (c), that relief in the form of her narrative reason for separation be changed to "Secretarial Authority". Additionally, the Board recommends that all references to her homosexuality be removed from her OMPF.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 23 May 1951, the narrative reason for separation was "Secretarial Authority", vice "Unfitness".


b. That any material or entries referring to her homosexuality be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future. This is to be accomplished by reconstructing the page on which the reference appears, or completely obliterating it so it cannot be read, rather than merely lining through it.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

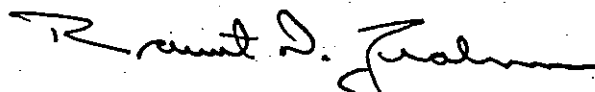
d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 19 March 2013.

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.


ROBERT D. ZSALMAN
Acting Executive director