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

JDR
Docket No: 5078-14
18 May 2015

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

Subj: REVIEW NAVAL RECORD OF
USN,

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

Encl: (1) DD Form 149
(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 her "under honorable conditions (general)" characterization of service, narrative reason for separation "homosexuality-engaged in, attempted to engage, or solicited another to engage in a homosexual act or acts," "RE-4" (not recommended for retention) reenlistment code, and separation program designator (SPD) "HRA" be changed per reference (b). She also requested her separation date be adjusted and impliedly requested that the separation authority "CNMPC MSG 261611ZFEB83 and MILPERSMAN 3630400" be changed.

2. The Board, consisting of
reviewed Petitioner's allegations of error and injustice on 15 May 2015, and pursuant to its regulations, determined that the partial 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, began a period of active duty on 1 May 1981, and served without disciplinary incident for about 11 months. However, on 30 March 1982, she received nonjudicial punishment (NJP) for failure to go, refusing to surrender her identification card, being disrespectful in language, wrongful destruction of government property, reckless driving, and failure to stop at a stop sign. On 20 August 1982, she was formally counseled and advised of future disciplinary action should her involvement of a discreditable nature with authorities continue. Additionally, on 23 August 1982, she received NJP for failure to go.

c. On 4 October 1982, Petitioner submitted a sworn statement admitting that she engaged in homosexual acts on more than one occasion in a barracks room on base. As a result of the foregoing admission, administrative discharge action was initiated due to homosexual admission. After consulting with legal counsel, she waived her procedural rights and her case was forwarded, recommending she receive a general discharge. The separation authority approved and directed a general discharge due to homosexuality and, on 9 March 1983, she was so discharged.

d. Reference (b) sets forth the Department of the Navy's current policies, standards, and procedures for correction of repeal of 10 U.S.C. 654. It provides service Discharge Review boards with the authority to grant requests to change the characterization of service to "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," and the reentry 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 when there are no aggravating factors in the record, such as misconduct.

e. In her application, although not substantiated, Petitioner asserts that she suffers from post-traumatic stress disorder (PTSD) developed as a result her military service.

CONCLUSION:

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

The Board concludes that based upon her overall record of service and current Department of the Navy policy as established in reference (b), that relief in the form of her narrative reason for separation be changed to "secretarial authority," the SPD code changed to "JFF," the reentry code changed to "RE-1J," and the separation authority changed to read "MILPERSMAN 1910-164."

The Board is not willing to change her general characterization of service. In this regard, the Board noted that she admitted to participating in homosexual acts under aggravating circumstances that have an adverse impact on morale and discipline. In her case, she engaged in homosexual acts in a barracks room on base, on more than one occasion, which is sufficient even under current standards to warrant a general discharge.

The Board also considered her assertion of PTSD in light of the Secretary of Defense's September 3, 2014 guidance to Boards for Correction of Military records regarding discharge upgrade requests by veterans claiming PTSD. The Board liberally considered whether her PTSD was a causative factor in the misconduct that resulted in her discharge. After full and careful consideration of the matter, the Board determined that there was insufficient evidence in the record, and she provided none, to support a conclusion that a causal relationship with the PTSD symptoms and misconduct existed. Specifically, the Board concluded that her misconduct was not caused by her PTSD and further determined that, even if there was a nexus between the PTSD and the misconduct, the severity of the misconduct would substantially outweigh any mitigation created by her PTSD.

The Board is not willing to adjust her separation date to give her active duty credit for a period of time that she did not serve. In view of the foregoing, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that, on 9 March 1993, the narrative reason for separation was "secretarial authority," the SPD code was "JFF," and the reentry code was "RE-1J." Additionally, that the separation authority was "MILPERSMAN 1910-164" and that she be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

b. That no further relief be granted.

c. That a copy of this report of proceedings be filed in 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 13 March 2014.

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.

T. J. REED
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 J. O'NEILL
Executive director