



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

[REDACTED]
Docket No: 8211-16
APR 08 2017

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

Subj: REVIEW NAVAL RECORD OF FORMER [REDACTED] USMC,
XXX-XX-[REDACTED]

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 enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting, that her characterization of discharge be changed from "under other than honorable conditions" to "honorable", narrative reason be changed from "homosexual admission" to "secretarial authority", her Separation Program Designator (SPD) be changed, and her "RE-4" reentry code be changed to "RE-1A". Petitioner also requested she be reinstated to E-4. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 16 February 2017 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 Marine Corps on 24 January 1994. The record shows that, during a preliminary inquiry into an alleged assault in the barracks involving Petitioner and a female Lance Corporal, Petitioner, who was a Corporal at the time of the misconduct, admitted to

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having a sexual relationship with the female LCPL and was involved in a sexual relationship with another female Private First Class. On 6 November 1997, Petitioner received nonjudicial punishment (NJP) for sodomy and assault and was reduced in rank to LCPL. As a result of her statement and NJP, administrative discharge action was initiated and it was recommended that she receive a discharge under other than honorable (OTH) conditions by reason of homosexual act. After being afforded all of her procedural rights, she was so discharged on 14 January 1998 with an OTH discharge.

d. 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 Discharge Review Boards with the guidance to grant requests to change the narrative reason for discharge to "secretarial authority," SPD code to "JFF1," re-characterize the discharge to honorable, 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 that Petitioner's request warrants favorable action in the form of partial relief.

The Board concludes that based upon her record of service, that relief be granted in the form of her narrative reason for separation be changed to "secretarial authority," SPD code be changed to "JFF1," and the separation authority be changed to read "MARCORSEPMAN PAR 6214".

The Board concludes the aggravating factors of "with a subordinate in circumstances that violate customary Naval superior-subordinate relationship" and "in another location subject to military control under aggravating circumstances ...that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft" are present since the homosexual acts admittedly occurred in the barracks. Due to the aggravating factors, the Board concludes her characterization of discharge should be changed to a "general under honorable conditions" and not "honorable" as she requested. Additionally, the Board concludes no change should be made to her reentry code. Lastly, the Board denied Petitioner's request to be reinstated to CPL/E-4 due to the NJP received for assault.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 14 January 1998, Petitioner was discharged with a "general under honorable conditions" characterization of service, the separation authority was "MARCORSEPMAN PAR 6214," that the narrative reason for separation was "secretarial authority," and SPD code be changed to "JFF1."

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XX-[REDACTED]

b. That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

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

d. That no further relief be granted.

e. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 22 August 2016.

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.

[REDACTED]

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.

[REDACTED]

Executive Director