



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

[REDACTED]
Docket No: 476-17
OCT 20 2017

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

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

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 his bad conduct discharge (BCD) be upgraded to honorable. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 July 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. On 26 May 1986, Petitioner reenlisted in the Marine Corps. On 10 January 1987, Petitioner received nonjudicial punishment (NJP) for making a false official statement and unauthorized absence during field maneuvers. On 8 October 1987, Petitioner was convicted by special court-martial (SPCM) for three specifications of wrongful solicitation to commit sodomy and indecent assault. He was sentenced to confinement, reduction in paygrade, forfeiture of pay,

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and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 23 June 1989, he was discharged.

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 Petitioner's SPCM conviction and BCD do not fall directly within the DADT policy but, in compliance with the spirit of the DADT policy, the Board concludes Petitioner should be granted clemency in the form of an upgrade to his characterization of service.

The Board concludes that based upon his record of service, that partial relief be granted in the form of his characterization of service be changed to general, under honorable conditions. 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 23 June 1989, his characterization of service was general, under honorable conditions.
- b. 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 9 January 2017.
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

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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