



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

[REDACTED]
Docket No: 499-17
MAR 13 2017

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

Subj: REVIEW OF NAVAL RECORD ICO 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
(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), requesting that her general under honorable conditions characterization of service be upgraded. She impliedly requested that her narrative reason for discharge "homosexual admission," her program designator code (SPD) "HRB1," her reentry code "RE-4," and the separation authority "MARCORSEPMAN PAR 6207.2" be changed.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 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 and began a period of active duty on 24 March 1997. On 3 October 1997, a Marine standing fire watch witnessed the Petitioner in bed with another female kissing and fondling each other. On 3 November 1997, she received nonjudicial punishment (NJP) for indecent acts with another. She was also counseled regarding her violation of Article 134 of the Uniform Code of Military Justice (UCMJ).

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On 20 November 1997, Petitioner submitted a written statement admitting to being a homosexual and indicated a propensity to engage in an active homosexual lifestyle. In view of the foregoing, administrative separation action was initiated. After being afforded her procedural rights, her commanding officer recommended an other than honorable (OTH) discharge. On 5 February 1998, the discharge authority directed a general under honorable conditions discharge by reason of homosexual admission, and on 11 February 1998, she was so discharged. At the time of her discharge, her proficiency and conduct marks were 3.6 and 3.7, respectively. Character of service is based, in part, on conduct averages which are computed from marks assigned during periodic evaluations. An average of 4.0 in conduct was required at the time of her separation for a fully honorable characterization of service.

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 service Discharge Review Boards with guidance to grant requests to change the narrative reason for discharge to "secretarial authority," SPD code to "JFF," 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:

The Board notes Petitioner's misconduct and does not condone her actions. However, being fully aware of the guidance regarding aggravating factors addressed in reference (c), and a conduct average below the required average for a fully honorable characterization of service, concludes that Petitioner's requests warrants favorable action. Specifically, the Board believes that the same offense committed by a heterosexual couple in the barracks would not have warranted an NJP, reduced conduct marks, and subsequent administrative discharge. Thus, the Board concludes that relief is warranted in the form of change of Petitioner's characterization of service to "honorable", reason for separation to "secretarial authority," SPD code to "JFF", reenlistment code to "RE-1J," and the separation authority of "MARCORSEPMAN 6214."

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 11 February 1998, her characterization of service was "honorable," the narrative reason for separation was "secretarial authority," she was assigned SPD code "JFF," and "RE-1J" reentry code. Additionally, that the separation authority was "MARCORSEPMAN 6214."

b. That Subject 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 Subject's naval record.

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