



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

[REDACTED]
Docket No: 721-17

SEP 07 2017

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

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

Ref: (a) 10 U.S.C. §1552
(b) 10 U.S.C. §654 (Repealed)
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. §654)

Encl: (1) DD Form 149 (NR20170000721) with attachments
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting correction to his Certificate of Release or Discharge from Active Duty (DD Form 214), to include a change to his uncharacterized separation, consideration of his narrative reason and authority, Separation Program Designator (SPD) code and reenlistment (RE) code. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 May 2017, 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to review the application on its merits.

c. Petitioner enlisted in the Marine Corps and began a period of active duty on 23 January 2001. On 16 June 2001, Petitioner received non-judicial punishment (NJP) for larceny of a \$32 bottle of cologne.

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d. On or about 20 June 2001, a medical professional with the Department of the Army, Headquarters US Army Medical Department Activity, Community Health Services reported that Petitioner had been diagnosed with bisexuality pursuant to his own admission of having dreams of engaging in homosexual conduct with other men. The report reflects evaluations and treatment on 8 and 15 June 2001.

e. On 25 June 2001, Petitioner made a written statement to his commanding officer, making contentions that amounted to homosexual admissions and indicating that he and his medical counselor weighed his situation and determined that discharge was appropriate.

f. On 2 July 2001, Petitioner was notified of administrative separation proceedings on the basis of "propensity to engage in homosexual conduct." The Acting Commanding Officer recommended a General discharge characterization. Petitioner had less than 180 days of service from the time of his enlistment to the date of notification.

g. On 12 July 2001, the staff judge advocate recommended that Petitioner receive an uncharacterized separation based on his entry level status.

h. Petitioner was discharged from the Marine Corps on 19 August 2001, with an uncharacterized character of service, homosexual admission narrative reason for separation, MARCORPSEPMAN par 6207 separation authority, HRB1 separation code, and RE-4 reentry code.

i. 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 characterization of service to "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," 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 relief.

In this regard, the Board noted that aggravating factors did not surround Petitioner's separation; rather he was separated solely based upon self-reported dreams of homosexual conduct.

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

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RECOMMENDATION:

That Petitioner's naval record be corrected to show that on 19 August 2001, he was issued an honorable characterization of service by reason of Secretarial Authority. Additionally, that his SPD code was JFF⁴, reenlistment code was RE-1A⁵, and the separation authority was MARCORSEPMAN par. 6421. [REDACTED]

It is further directed that he be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214).

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

That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 30 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