



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

[REDACTED]
Docket No: 830-17
MAY 02 2017

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED] USN,
[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) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting that the narrative reason for discharge "unsuitability - aberrant tendencies/sexual deviate," the program designator code (SPD) "JMK," and the "RE-4" (ineligible for reenlistment) reentry code be changed. Additionally, Petitioner impliedly requested that and the separation authority "BUPERSMAN 3420184" be changed. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 April 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 waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 27 May 1977. Although her record is not complete, it appears that she received a psychological evaluation and was diagnosed with aberrant sexual tendencies. In view of the foregoing, administrative

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separation action was initiated. After being afforded all of her procedural rights, on 16 August 1978, her Commanding Officer recommended separation with the type warranted by service record. The separation authority concurred with the recommendation and directed separation by reason of unsuitability. On 11 September 1978, she received an Honorable 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 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:

Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board concluded that the Petitioner's request warrants favorable action in the form of relief. In this regard, the Board noted that the sole basis for discharge was homosexuality and there were no aggravating factors in the record, such as misconduct. Thus, the narrative reason for discharge, the SPD code, the separation authority, and the reenlistment code shall be changed.

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 September 1978, the narrative reason for separation was "secretarial authority," the SPD code was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 26 January 2017.

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[REDACTED]

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