



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

[REDACTED]  
Docket No: 895-17

JAN 03 2018

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED] USNR,  
[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 w/attachments

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted sailor, filed enclosure (1) with this Board requesting that his discharge be upgraded to general under honorable conditions. Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 October 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, relevant portions of his 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. Petitioner reenlisted in the Navy on 14 September 1999. On numerous occasions, Petitioner made slight innuendos, sexual in nature, to individuals aboard the ship. Petitioner had been counseled but the behavior continued. In October 2000, through a Preliminary Inquiry (PI) ordered by the Commanding Officer after an allegation that Petitioner solicited another shipmate, the Investigating Officer (IO) found that Petitioner "through spoken/written statement has indicated a propensity or intent to engage in homosexual acts." At the time, it was unknown whether Petitioner had committed any acts but Petitioner did state that this was his third time being brought up on these charges. Petitioner contended the statements, including the emails, were made in a joking manner.

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[REDACTED]

c. Administrative discharge action was initiated by reason of homosexual conduct as evidenced by member engaging in, attempting to engage in, or soliciting another to engage in homosexual acts. After being afforded all of his procedural rights, Petitioner's Commanding Officer recommended he receive a general discharge under honorable conditions because of Petitioner's contributions to the Navy and professional performance at the command. The separation authority did not concur with the recommendation and directed separation under other than honorable (OTH) conditions by reason of homosexual conduct. Petitioner was discharged with an OTH characterization of service on 30 January 2001.

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 "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 concludes that Petitioner's request warrants favorable action.

The Board concludes that based upon his record of service, relief should be granted in the form of his characterization of service being changed to "general under honorable conditions" as originally recommended by Petitioner's commanding officer, his narrative reason for separation be changed to "secretarial authority," separation code be changed to "JFF," and the separation authority be changed to read "MILPERSMAN 1910-164".

The Board finds Petitioner's repeated and continuous behavior of making slight innuendos that were sexual in nature to be unacceptable. Petitioner admittedly had been "brought up on charges" on three occasions and had also been counseled on numerous occasions but his behavior continued.

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

#### RECOMMENDATION:

Petitioner's naval record be corrected to show that on 30 January 2001 his characterization of service was "general under honorable conditions", his narrative reason for separation was "secretarial authority," the separation authority was "MILPERSMAN 1910-164," and his separation code be changed to "JFF".

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

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[REDACTED]

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

Upon request, the Department of Veterans Affairs shall be informed that Petitioner's application was received by the Board on 31 January 17.

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