



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

Docket No. 5515-17
NOV 09 2017

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USN,
[REDACTED]

Ref: (a) Title 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(b) 10 U.S.C. §654 (repealed)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 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 Navy, filed enclosure (1) with this Board requesting, in effect, that his "other than honorable discharge" (OTH) be changed to "general under honorable conditions", the narrative reason for separation "Homosexuality..." and separation program designator (SPD) "GRA-890" be changed per reference (b). Implicit in this request is that change also be made to separation authority "MILPERSMAN 3630400." Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 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 your application, together with all material submitted in support thereof, relevant portions of your naval record 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 limitation and review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 5 September 1980. On 9 December 1981 and 19 November 1982, the Petitioner received nonjudicial punishments for unauthorized absence, missing movement and indulgence in intoxicating liquor which

Subj: REVIEW NAVAL RECORD OF [REDACTED] USN,
[REDACTED]

incapacitated him for the proper performance of his duties.

d. On 25 December 1982, the Petitioner was accused by another shipmate of being fondled while asleep.

e. 19 January 1983, Petitioner's Commanding Officer provided notice of proposed separation processing. On 16 February 1983, the Administrative Discharge Board adjourned and voted 3 to 0 finding the Petitioner guilty of sodomy and recommended that Petitioner receive an "other than honorable" discharge by reason of homosexual acts. On 23 May 1983, he was so discharged.

d. Reference (c) sets forth the Department of the Defense's current policies, standards, and procedures for correction of military records following the repeal of "Don't Ask, Don't Tell" (DADT) (reference (b)). It provides the Board for Correction of Naval Records with guidance for granting requests to change the characterization of service to "general" or "honorable," narrative reason for discharge to "secretarial authority," SPD code to "JFF," and reentry code to "RE-1J," when the original discharge was (1) based solely on DADT or a similar policy that preceded DADT, and (2) 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 partial relief and the character of service shall remain an other than honorable because the Board found aggravating factors in the record. The Board determined that his narrative reason for separation should be changed to read "secretarial authority", and SPD code changed to "JFF". Additionally, the Board determined that the separation authority should be changed to read "MILPERSMAN 1910-164." The Board noted that normally a DD Form 215 would be issued to correct the record. However, issuing a new DD Form 214 will allow the Petitioner to obtain various benefits, services, plus employment, without being subject to otherwise invasive questions about personal matters.

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

RECOMMENDATION:

That Petitioner's naval record be corrected to show that on 20 April 1984, his narrative reason for separation be changed to read "secretarial authority," SPD code be changed to "JFF," reentry code to "RE1J" and the separation authority be changed to read "MILPERSMAN 1910-164."

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

That no further relief be granted.

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USN,
[REDACTED]

was received by the Board on 21 June 2017.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)), 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 Regulations, 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