



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

[REDACTED]
Docket No: 6511-17
APR 29 2019

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

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

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 with attachments
(2) Advisory Opinion of 10 Jan 18

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting his narrative reason for discharge and his reenlistment code be changed.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 December 2018, 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 service records, and applicable statutes, regulations, policies, and an advisory opinion (AO) from a qualified mental health provider dated 10 January 2018.

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 Navy and began a period of active duty service on 5 April 1966. Petitioner's first duty assignment as a hospital corpsman was on board the hospital ship [REDACTED] forward deployed to the Vietnam area of operations.

d. While the Petitioner was undergoing inpatient treatment at the National Naval Medical Center in [REDACTED] he was medically reviewed by a Medical Board. On 11 Feb 1970, the medical board diagnosed Petitioner with the following: "Passive-Dependent Personality

#3016, EPTE, manifested by attenuated psycho-sexual development, importuning nature, clinging dependency, manipulative gestures, and social inadaptability. Predisposition marked (neuropathic traits of childhood and unstable parental home); precipitating stress none (routine military service); impairment severe (unsuitable for further military service)." The Medical Board panel recommended that Petitioner be separated from the Navy *on the basis of his personality disorder*, which in its collective opinion rendered him unsuitable for further military service.

e. Petitioner contends, however, that his personality disorder diagnosis followed an admission of being gay in a group therapy session. Petitioner argues that he was misdiagnosed and that his discharge was clearly a result of being a homosexual. Petitioner also contends that he suffered from post-traumatic stress disorder (PTSD) symptoms after being traumatized from performing rescue efforts on board the [REDACTED] and that his pathology arose from PTSD, not personality disorder.

f. Petitioner was ultimately discharged from the Navy on 25 February 1970, with an honorable characterization of service by reason of "unsuitability." Petitioner's DD-214 also contained a corresponding separation code of "265," which stood for "unsuitability-character disorder," and a reenlistment code of "RE-4."

g. 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.

h. As part of the review process, a Medical Service Corps Officer (MSCO), who is a psychologist, reviewed Petitioner's assertions and the available records. The MSCO issued a favorable AO dated 10 January 2018. The MSCO opined that the Petitioner was effectively misdiagnosed with a character disorder. The MSCO determined that the multiple references to sexuality in the record (including his diagnosis), and the inconsistency between the medical observations and the Petitioner's actual military performance suggested a strong likelihood he was misdiagnosed. The MSCO found that the attending psychiatrists' reference to "attenuated psycho-sexual development" in their personality disorder diagnosis supports the hypothesis that the Petitioner's sexual orientation, vice personality pattern, was the identified problem. The MSCO concluded that the preponderance of the evidence suggests that a mixture of true pathology, and pathologized sexuality (his disclosure that he was gay) led to his character disorder diagnosis.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the AO and reference (c), the Board concludes Petitioner's request warrants relief. The Board noted

Petitioner's record supports that he was administratively discharged on the basis of his homosexuality using a policy similar to DADT, and that there were absolutely no aggravating factors surrounding his discharge. Accordingly, the Board concludes that no useful purpose is served by continuing to characterize the Petitioner's service as having been discharged due to unsuitability and/or a character disorder.

The Board also determined that in order to fully effectuate the letter and spirit of the reference (c) policy, additional relief was warranted above and beyond what Petitioner requested in his application. Such additional relief is necessary to ensure that there are no administrative inconsistencies surrounding the Petitioner's discharge. Accordingly, in addition to modifying Petitioner's narrative reason and reenlistment code, the Board concluded that changing Petitioner's separation code (aka SPD Code), and separation authority on his DD-214 is warranted as well.

Given that the Board is recommending full relief based on DADT policy considerations, the Board concluded that no additional inquiry is necessary to determine whether Petitioner suffered from PTSD at the time of his discharge, and whether his behavior and symptom presentation described as a personality/character disorder are attributed to PTSD.

RECOMMENDATION:

In view of the foregoing, the Board finds the existence of an injustice and directs the following corrective action.

That Petitioner's separation authority be changed to "MILPERSMAN 1910-164," the separation code be changed to "JFF," the narrative reason for separation be changed to "Secretarial Authority," and the reenlistment code be changed to "RE-1J."

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

That any and all existing DD Form 214, DD Form 214N, and Record of Discharge, Release From Active Duty, Or Death (NAVPERS 601-14/NAVCOMPT 512), be removed from Petitioner's Naval record.

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 31 July 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.

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

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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