



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

[REDACTED]
Docket No. 6516-17
NOV 20 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 (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) 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 narrative reason for separation "Homosexuality" and separation program designator (SPD) "HRB" and reenlistment code "RE-4" code be changed per reference (b). Implicit in this request is that change also be made to separation authority "MILPERSMAN 3630400." Furthermore, Petitioner also requests the removal or redaction of any entries connected to the Naval Investigative Service (NIS) investigation that discloses him participating in homosexuality that led to his discharge. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 6 September 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 11 July 1979.

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d. Between 1983 and 1984, an investigation took place by the Naval Investigative Services due to a complaint of homosexual solicitation revealed that the Petitioner admitted to homosexual acts with civilian partners on approximate six occasions since September of 1983. As a result of the foregoing, administrative discharge action was initiated. After being afforded all of his procedural rights, it was directed that he receive an "honorable" discharge by reason Homosexuality- Stated he is a homosexual or bisexual. On 20 April 1984, he was so discharged.

e. 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 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. In this regard, the narrative reason for separation be changed to read "secretarial authority", SPD code be changed to "JFF", and reenlistment code be changed to "RE-1J". Additionally, that the separation authority be changed to read "MILPERSMAN 1910-164." The Board found no error or injustice in keeping the Commanding Officer's recommendation for separation comments referencing the NIS investigation and as a result felt it was not necessary to remove or redact any entries connected to the NIS investigation. 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, employment, etc., 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", and reentry code to "RE1J". Additionally, that 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 was received by the Board on 1 August 2017.

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[REDACTED]

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