



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

█  
Docket No. 10886-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █  
█ XXX XX █ USMC

Ref: (a) Title 10 U.S.C. § 1552  
(b) Official Military Personnel File  
(c) Title 10 U.S.C. § 654 (Repealed)  
(d) UNSECDEF Memo of 20 Sep 11 (Correction of Military Record following Repeal of 10 U.S.C. § 654)

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that he be granted a medical retirement, a change in his narrative reason for discharge, and that his characterization of service be upgraded. Alternatively, Petitioner requests to be placed in the Integrated Disability Evaluation System (IDES).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 13 June 2023 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 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider his case on its merits.

b. A review of Petitioner's record reveals that he enlisted in the Marine Corps and commenced active duty on 7 April 1961. On 11 December 1962, Petitioner was reviewed by a Physical Evaluation Board that recommended he be separated due to a knee condition. On 20 December 1962, the Physical Review Council recommended to the Secretary of the Navy that Petitioner be discharged with severance pay due to a physical disability. In the meantime, Petitioner was investigated for homosexual conduct. In January 1963, Petitioner's commanding officer recommended to Commandant of the Marine Corps, via his chain of command, that

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[REDACTED] XXX XX [REDACTED] USMC

Petitioner be discharged due to sexual perversion based on Petitioner's admission that he engaged in three homosexual encounters in May 1962. On 18 February 1963, Petitioner's commanding general recommended to the Commandant of the Marine Corps that Petitioner be discharged. On 25 February 1963, Petitioner received a pre-separation medical examination, which stated that Petitioner was examined and found "to be physically qualified to perform all of the duties of his rank at sea, on foreign service, in the field, and for: discharge by reason of unfitness." Ultimately, Petitioner was discharged on 5 March 1963 due to homosexual conduct under conditions other than honorable. Post-service, Petitioner filed a previous petition with this Board, which denied his petition by letter dated 11 June 1969.

c. In his petition, Petitioner requests to be granted a medical retirement, a change to his narrative reason for separation, and an upgrade to his characterization of service. He alternatively seeks to be placed in the IDES. In support of his request, Petitioner contends that while he was in-service he injured his knee and was reviewed by the PEB, but he was investigated, and discharged, for homosexual conduct.

d. Reference (d) sets forth the Department of the Navy'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 the guidance to normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," and the reentry 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, the Board concluded that the Petitioner was entitled to partial relief. Specifically, the Board concluded Petitioner was discharged based on his homosexuality without any aggravating factors in his record. Therefore, the Board determined Petitioner was entitled to relief consistent with reference (c).

Notwithstanding the recommended corrective action below, with respect to Petitioner's request to have receive a medical retirement or referral to the IDES, the Board determined that this relief was not warranted. Specifically, reference (d) explains that Department of Defense regulations implementing various aspects of discharges based on homosexual conduct were valid regulations during the relevant time period. Thus, while the repeal of regulations providing for discharge of service members as a result of homosexual conduct may be a relevant factor in evaluating an application "such as requests to change the narrative reason for a discharge, [and] requests to re-characterize the discharge to honorable," such factors do not alone constitute an error or injustice that would invalidate an otherwise proper action. In view of this reference, taken as a whole, the Board determined that granting Petitioner a medical retirement or disability severance pay was not appropriate based on the fact that he was properly discharged as a result of a regulations that were valid at the time of his discharge.

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## RECOMMENDATION

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

Petitioner's naval record be corrected by issuing him a new Certificate of Release or Discharge from Active Duty (DD Form 214) and discharge certificate, for the period ending 5 March 1963, reflecting that his characterization of service was "Honorable," his reason and authority for discharge was "MCPM 13270 – When directed by the Secretary of the Navy," his SPD was JFF1, and his Reentry Code was "RE-1J."

And no other relief.

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. The foregoing action of the Board is submitted for your review and action.

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.

7/1/2024

