



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

[REDACTED]  
Docket No. 92-24  
Ref: Signature Date

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. 1552  
(b) 10 U.S.C. 654 (Repeal)  
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Record following Repeal of 10 U.S.C. 654)  
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 with attachments  
(2) Case summary

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Corrections of Naval Records (Board), requesting that his naval record be corrected consistent with references (b) and (c).
2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 14 June 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (d).
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 of limitations and review the application on its merits.
  - c. Petitioner originally enlisted in the U.S. Marine Corps and began a period of active duty on 21 April 1958. Petitioner reenlisted for six (6) years on 21 April 1961.
  - d. On 7 August 1961, Petitioner provided a voluntary statement to the Office of Special

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
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Investigations where he admitted to engaging in certain homosexual acts with a male United States Air Force Officer.

e. On or about 27 September 1961, Petitioner was charged with violating Uniform Code of Military Justice Article 125 for committing sodomy during the months of February and March 1961 with an Air Force officer.

f. Petitioner subsequently voluntarily submitted a written request to accept an undesirable discharge for the good of the service to escape trial by general court-martial for his sodomy charge. Petitioner acknowledged that if his request was approved, the characterization of service would be under conditions Other Than Honorable (OTH). Petitioner understood that with an OTH discharge he would be deprived of virtually all rights as a veteran under both state and federal legislation, and that he may expect to encounter substantial prejudice in civilian life in situations wherein the type of service rendered in any branch of the armed forces or the character of discharge received therefrom may have a bearing.

g. On 28 November 1961, the Separation Authority directed Petitioner's separation from the service by reason of unfitness with an undesirable (OTH) discharge. Ultimately, on 12 December 1961, the Petitioner was discharged from the Marine Corps for his homosexual conduct with an OTH characterization of service.

h. Petitioner's service record did not otherwise contain any documented misconduct or adverse counseling entries.

i. In short, Petitioner contended, in part, that his discharge was an injustice because it was based on existing policy in effect similar to the "don't ask, don't tell" (DADT) policy. He also contended that his discharge was an injustice because his offenses are no longer considered misconduct under today's UCMJ, and there were no aggravating factors. Petitioner further argued that it was both an error to have characterized his service with an OTH discharge, and unjust for Petitioner to continue to be burdened by such characterization in light of the DADT repeal. Petitioner contended that changes in Department of the Navy policy and the Wilkie Memo directive provides the Board with broad discretion to correct Petitioner's injustice.

j. References (b) and (c) set forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the 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," the narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," the reentry code to "RE-1J," and other conforming changes to the DD Form 214 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:

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
XXX XX [REDACTED] USMC

Upon review and consideration of all the evidence of record, and in light of references (b) through (d), the Board concludes that Petitioner's request warrants relief. The Board noted Petitioner's record supports that he was administratively discharged due solely to his homosexual conduct based on the DADT-related policy in place, and that there were no aggravating factors in his service record.

Accordingly, the Board concluded that certain remedial changes were warranted to the Petitioner's characterization of service, narrative reason for separation, separation authority, separation code, and reentry code to conform with all current military directives and policy.

Additionally, in light of the Wilkie Memo, the Board concluded after reviewing the record holistically, and given the totality of the circumstances that a discharge upgrade to Honorable is appropriate at this time.

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214, for the period of 21 April 1961 to 12 December 1961, indicating his character of service as "Honorable," the narrative reason for separation as "Convenience of the Government (other good and sufficient reason as determined by the Commandant of the Marine Corps or Secretary of the Navy)," the separation authority as "21L – Paragraph 13261.1f Marine Corps Personnel Manual," the separation code as "JFF1," and the reentry code as "RE-1J."

It is further directed that Petitioner be issued a new Honorable Discharge Certificate.

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

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 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.

6/25/2024

