



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

██████████  
Docket No. 441-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
██████████

Ref: (a) 10 U.S.C. § 1552  
(b) 10 U.S.C. 654 (Repeal)  
(c) UNSECDEF Memo of 20 Sep 11 (Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 w/ enclosures

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting that his discharge be upgraded to "Honorable" in accordance with references (b) and (c). Enclosure (1) applies.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 22 March 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, applicable statutes, regulations, and policies, to include references (b) and (c).

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 the case on its merits.

b. Petitioner enlisted in the Navy and began a period of active duty on 30 July 1976. He was questioned by Naval criminal investigators on 21 October 1977 regarding allegations of homosexual conduct and made a voluntary statement in which he admitted to the conduct, describing that he was at a night club with another individual and left at closing time, around 0400, at which point he stated he "was pretty high."

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

c. On 31 October 1977, Petitioner was notified of administrative discharge by reason of misconduct due to homosexual acts. He waived his rights but requested that he receive a General (under honorable conditions) characterization of service.

d. On 8 January 1978, Commander, Naval Military Personnel Command, approved Petitioner's discharge via naval message, directing that he receive type warranted by service record. At the time of his discharge, on 20 January 1978, Petitioner was issued a discharge "Under Honorable Conditions" with an omitted narrative reason for separation per his election to decline an optional statement for his narrative reason for separation and separation authority; he was also not issued a reentry code.

e. At the time of his discharge, Petitioner had a 2.8 overall trait average.

f. Reference (c) 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 "JFF," 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 Petitioner's request warrants favorable action in the form of relief. The Board reviewed his application under the guidance provided in references (b) and (c).

The Board noted that, although Petitioner appears to have admitted to drug-related misconduct in his voluntary statement, his records indicate that his command did not pursue disciplinary action regarding that potential offense. Rather, his record contains no evidence of nonjudicial punishment or adverse counseling and the recommendation for his discharge indicated that there were no applicable circumstances for any alleged offenses. Upon review of the available evidence, the Board concluded that Petitioner was, in fact, separated solely on the basis of his admission of homosexual conduct, without other misconduct being addressed during the course of his administrative separation. Further, the Board noted that his discharge was directed as type warranted by service record, and the Board found that Petitioner's overall trait average and absence of disciplinary record qualified him for a characterization of "Honorable" service. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief.

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

#### RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending 20 January 1978, he was discharged with

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

an "Honorable" characterization, with a narrative reason for separation of "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," a separation code of "JFF," and a separation authority of "BUPERSMAN 3850220."

That Petitioner be issued an Honorable Discharge certificate.

That no further changes be made to Petitioner's record.

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 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.

4/12/2024

[REDACTED]