



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

█
Docket No. 1655-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █,
USN, XXX-XX █

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) Case summary

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 naval record be corrected his record consistent with references (b) and (c).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 22 April 2024 and, pursuant to its regulations, determined 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 included 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.

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 on 1 October 1980. On 2 August 1981, Petitioner received nonjudicial punishment (NJP) for violation of a lawful order by wrongfully using a controlled substance-marijuana. On 8 November 1981, Petitioner was referred to a medical officer for evaluation as a result of life threatening comments against a petty officer first class. During the evaluation, Petitioner admitted his engagement in homosexual acts during his period of military service. Consequently, Petitioner was notified of

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the initiation of administrative separation proceedings by reason of homosexuality, at which point, he decided to waive his procedural rights. Subsequently, the Petitioner's commanding officer recommended that he be admiratively separated from the Navy with a General (Under Honorable Conditions) discharge characterization of service by reason of homosexuality. On 5 February 1982, Petitioner was discharged.

d. Petitioner contends he was discharged from the military because he is gay and is ineligible for any military benefits under his current condition.

e. 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 normally 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.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) through (c), the Board concludes Petitioner's request warrants relief. While the Board noted his misconduct, they concluded Petitioner's record supports that he was solely discharged on the basis of his admission of homosexual conduct. Therefore, the Board determined Petitioner is entitled to full relief under reference (c).

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 ending 5 February 1982, indicating a characterization of service of "Honorable," narrative reason for separation as "Secretarial Authority," separation authority as "MILPERSMAN 1910-164," separation code as "JFF," and reentry code as "RE-1J."

That Petitioner be issued a new 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.

5. 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.

6. 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

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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.

5/14/2024

