



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

██████████  
Docket No. 1718-24  
Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN, ██████████

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 her record be corrected consistent with references (b) and (c). Additionally, Petitioner requested to that the Board adjust her date of separation to provide active duty credit for the remaining period of her service on contract prior to her discharge. Enclosure (1) applies.

2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 1 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 4 December 1989.

c. Petitioner made a voluntary statement, on 14 September 1990, regarding allegations of homosexual conduct and was subject to nonjudicial punishment (NJP), on 1 November 1990, for violations of the Uniform Code of Military Justice (UCMJ) under Article 92, by failing to obey a lawful order which prohibited sexual relations in bachelor enlisted quarters, and two

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specifications under Article 134, by wrongfully committing indecent acts with a civilian female and for making a false statement under lawful oath by saying "I have no knowledge of the subject matter" which she did not then believe to be true. Her punishment included 45 days restriction and extra duty in addition to two months partial forfeitures of pay.

d. On 3 December 1990, Petitioner was notified of administrative separation by reason of homosexuality due to admission and by engaging in homosexual acts. She was also advised of the reason of misconduct due to commission of a serious offense in relation to her sole NJP. She elected to waive all applicable rights.

e. The recommendation for Petitioner's discharge under Other Than Honorable conditions specified that she had been disciplined "for wrongfully committing an indecent act with a civilian and another female military member by having sexual relations" which was not compatible with the lifestyle of a service member and would not be tolerated.

f. The naval message approving Petitioner's administrative discharge specified to use a separation code of "HKQ" to reflect misconduct due to commission of a serious offense, and Petitioner was discharged on 9 January 1991.

g. Petitioner initially sought relief from the Naval Discharge Review Board (NDRB), which considered her request, on 15 December 2003, and denied relief.

h. This Board previously considered Petitioner's application on 11 September 2017, which resulted in an upgraded characterization of service to General (Under Honorable Conditions) with no change to her narrative reason for separation. This grant was limited to partial relief due to the presence of aggravating factors as outlined in reference (b).

i. References (c) set 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," SPD code to "JFF," and 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's request warrants favorable action in the form of relief. The Board reviewed her application under the guidance provided in references (b) and (c).

In this regard, the Board noted that Petitioner's in-service record of performance and conduct reflected Honorable service. While the Board also noted Petitioner's misconduct, it determined her separation was based solely on her sexuality and not her related misconduct. Therefore, the Board concluded it was in the interest of justice to grant full relief under reference (c).

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Notwithstanding the recommended corrective action below, with respect to Petitioner's request regarding adjustment of her separation date, the Board noted that policy guidance expressly states that remedies such as correcting a record to reflect continued service with no discharge or credit for time lost would not normally be appropriate.

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, on 9 January 1991, she was discharged with an "Honorable" character of service for the narrative reason for separation of "Secretary Plenary Authority" under the separation authority of "MILPERSMAN 3630900" with a separation code of "JFF," and reentry code "RE-1J."

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.

3/25/2024

