



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

█
Docket No. 1729-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █
USNR █

Ref: (a) 10 U.S.C. § 1552
(b) USD (P&R) Memo, Correction of Military Records Following Repeal
of Section 654 of Title 10, United States Code, 20 September 2011

Encl: (1) DD Form 149 w/attachments
(2) NAVPERS 601, Record of Discharge, Release from Active Duty, or Death, DD Form
214 Certificate of Release or Discharge from Active Duty
(3) DD Form 214 (19551017 – 19580822)
(4) █ Commandant Memo 16 1600 Ser 90/16, subj: [Petitioner];
request for instructions concerning, 17 January 1962
(5) CNP Memo Pers-7231-ab 570744/1105 Ser F2/149, subj: Your status in the U.S.
Naval Reserve, 24 January 1962
(6) Petitioner's Letter, subj: Resignation from the Naval Service, 12 February 1962
(7) CNP Memo Pers-F231-ab 570744/1105 Ser F2/399, Second Endorsement on
Enclosure (6), subj: Resignation from the Naval Service, 15 March 1962
(8) SECNAV Memo 570744/1105, subj: Acceptance of resignation from the U.S. Naval
Reserve, 19 March 1962

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, hereinafter referred to as the Board, requesting a discharge upgrade.¹

2. The Board reviewed Petitioner's allegations of error or injustice on 8 April 2024, and pursuant to its governing policies and procedures, determined that the corrective action indicated below should be taken on his naval record in the interests of justice. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include reference (b).

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board finds as follows:

¹ Petitioner did not specify the relief requested. He appears to believe that it was his resignation prior to completion of his USNR obligation which currently deprives him of medical benefits from the Department of Veterans Affairs. However, it is more likely the characterization of his USNR service depriving him of such benefits.

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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 interests of justice to waive the statute of limitations and review his application on its merits.

c. Petitioner enlisted in the U.S. Navy Reserve (USNR) on 17 September 1954. He entered active duty on 17 October 1954 to attend Officer Candidate School (OCS), and was honorably discharged upon completion of OCS on 2 March 1955 in order to accept a commission as an Ensign. See enclosure (2).

d. Petitioner was appointed as an Ensign in the USNR on 3 March 1955 and served on active duty until he was honorably discharged from active duty upon the completion of his active duty service commitment on 22 August 1958. See enclosure (3).

e. By memorandum dated 17 January 1962, the USNR [REDACTED] Commandant forwarded information to the Chief of Naval Personnel (CNP) suggesting that Petitioner engaged in homosexual acts.²for See enclosure (4).

f. By letter dated 24 January 1962, Petitioner was notified that the CNP was in receipt of the information referenced in paragraph 3e above and that his discharge from the USNR may therefore be warranted.³ See enclosure (5).

g. By hand-written letter date 12 February 1962, Petitioner submitted his resignation for the good of the service. He acknowledged that his discharge would be considered as being under other than honorable (OTH) conditions if his resignation was accepted, and that he was aware of the adverse effect that such a characterization could have upon his rights and benefits. See enclosure (6).

h. By memorandum dated 15 March 1962, the Deputy CNP recommended that the Secretary of the Navy (SECNAV) approve Petitioner's resignation request and that Petitioner be discharged from the USNR under OTH conditions. See enclosure (7).

i. By memorandum dated 19 March 1962, the Under SECNAV accepted Petitioner's resignation for the good of the service. See enclosure (8).

j. Reference (b) provides that the Board should normally grant requests to change the narrative reason for discharge and discharge characterizations when both of the following conditions are met: (1) the original discharge was based solely on the former "Don't Ask, Don't Tell" (DADT) policy (or a similar policy in place prior to the enactment of DADT); and (2) there were no aggravating factors in the record, such as misconduct.

² The specific information is not available in the record, but Petitioner asserts that an accusation that he engaged in homosexual acts was submitted under a fake name.

³ Petitioner continued serving in his USNR capacity after completion of his active-duty service obligation.

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CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Board found an injustice warranting equitable relief.

Although Petitioner resigned and therefore was not technically discharged pursuant to the Navy's precursor to the DADT policy, his resignation for the good of the service was encouraged and motivated by such a policy. There was also no other misconduct in Petitioner's naval record; he successfully completed OCS and honorably completed his four-year active duty service obligation before continuing his otherwise honorable service in the USNR. If not for the anonymous allegation accusing him of engaging in homosexual acts, Petitioner undoubtedly would have continued serving honorably and would currently enjoy all of the benefits that such service would entail. Accordingly, the Board found a clear injustice warranting corrective action to his naval record.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a NAVPERS 1070/615 reflecting that his resignation request was accepted for the convenience of the government and that his service was characterized as honorable (along with the corresponding separation authorities, codes, etc.).

That the documents referencing Petitioner's resignation for the good of the service under OTH conditions be removed from his 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 titled matter.
5. The foregoing action of the Board is submitted for your review and action.

7/8/2024

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SECRETARY OF THE NAVY DECISION:

[REDACTED]

Board Recommendation Approved (Grant Relief – I concur with the Board’s conclusions and therefore direct the relief recommended by the Board above.)

— Board Recommendation Disapproved (Deny Relief – I do not concur with the Board’s conclusions for the following reason(s): _____

_____)

[REDACTED]

Date: 11/21/24