



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

██████████
Docket No. 3117-24

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 (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 he be assigned an Honorable characterization of service and that his DD Form 214 be changed in light of references (b) and (c). See enclosure (1).

2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error on 12 June 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of his naval service records, and 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.

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 U.S. Navy and began a period of active duty on 10 August 1990. On 4 December 1990, Petitioner was seen by medical and reported his homosexual activity. On 18 December 1990, Petitioner submitted a request to be discharged because he was a homosexual and his desired lifestyle is incompatible with military service.

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d. On 3 January 1991, the Petitioner was processed for separation for Homosexuality by reason of self-admission. He elected his right to consult with counsel and waived his right to an administrative board. The Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that Petitioner be separated with an uncharacterized entry level separation due to homosexuality. The SA agreed with the recommendation and Petitioner was so discharged on 4 February 1991.

e. Petitioner's DD Form 214, reveals he was separated from the Navy, on 4 February 1991, with an Entry Level characterization of service, his narrative reason for separation is "Homosexuality stated he is homosexual or bisexual," his separation code is "HRB," and his reenlistment code is "RE-4."

f. Petitioner contends he qualifies for an Honorable characterization based on his time in service.

g. 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 grant requests to change the narrative reason for separation 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 concludes Petitioner's request warrants partial relief. Specifically, the Board noted Petitioner was discharged based solely on his admission of homosexuality and found no evidence of aggravating factors in his record. Therefore, the Board found that it was in the interests of justice to change his narrative reason for separation, separation code, separation authority, and reentry code consistent with the guidance provided in reference (c).

Notwithstanding the recommended corrective action below, the Board concluded his assigned uncharacterized entry level separation remains appropriate. The Board noted the Petitioner was within his first 180 days of active duty when he was notified for separation. Service regulations direct the assignment of an uncharacterized entry level separation when a service member is processed for separation within their first 180 days of service. While exceptions to policy exist in cases involving misconduct or extraordinary performance, the Board determined neither exception applied in Petitioner's case. Finally, based on Petitioner's own request of 19 December 1990, he understood he was being processed for separation while in an entry level status. As a result, the Board did not find evidence of an error or injustice that warrants changing Petitioner's characterization of service.

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[REDACTED]

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 4 February 1991, indicating his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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.

6/25/2024

