

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

d. On 9 September 1983, Petitioner was disenrolled from the nuclear training program for academic failure. According to Petitioner's service record, Petitioner lacked the academic aptitude required for successful completion, and he was not recommended for return to the program at any future date.

e. Petitioner subsequently provided to his command a written admission of him being a homosexual and his desire to continue engaging in homosexual acts. Petitioner stated he became a practicing homosexual in February 1983, and that he did not intend on stopping his homosexual experiences.

f. Following his voluntary statement, Petitioner was processed for an administrative separation by reason of homosexuality as evidenced by his written admission of being a homosexual and his desire to continue engaging in homosexual acts. Petitioner waived his rights to consult with counsel and to request an administrative separation board. Ultimately, on 25 October 1983, Petitioner was discharged from the Navy for homosexuality with an Honorable characterization of service and assigned an RE-4 reentry code.

g. Petitioner's service record did not otherwise contain any documented misconduct.

h. In short, Petitioner contended, in part, that his discharge was an injustice because it was based on existing policy in effect similar to the "don't ask, don't tell" (DADT) policy. He also contended, in part, that his narrative reason for separation was discriminatory and an injustice because it was based on the pre-"don't ask, don't tell" (DADT) policy without any aggravating factors. Petitioner further argued that it was unjust for Petitioner to continue to be burdened by such narrative reason in light of the DADT repeal. Petitioner contended that changes in Department of the Navy policy and the Wilkie Memo directive provide the Navy with broad discretion to correct Petitioner's injustice.

i. References (b) and (c) set forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the DADT repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests to change the narrative reason for discharge to "Secretarial Authority," the separation code to "JFF," the reentry code to "RE-1J," and other conforming changes to the DD Form 214 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 in light of references (b) through (d), the Board concludes that Petitioner's request warrants partial relief. The Board noted Petitioner's record supports that he was administratively discharged due to his homosexual conduct based on the pre-DADT-related policy in place at such time, and that there were no aggravating factors in his service record.

Accordingly, the Board concluded that certain remedial changes were warranted to the Petitioner's narrative reason for separation, separation authority, separation code, and reentry code to conform with all current military directives and policy.

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However, the Board unequivocally denied Petitioner's request for an adjustment to his separation date to provide active duty credit for his remaining period of service (or at a minimum two years) terminated by his DADT-related discharge. The Board determined that broad, retroactive corrections of records from applicants discharged under DADT are not warranted. The Board noted that the issuance of a discharge under DADT or the taking of an action pursuant to Department of Defense (DoD) regulations related to a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Further, the Board considered that reference (c) does not direct the granting of service credit. The Board thus concluded that remedies such as correcting a record to reflect continued service with no discharge or credit for time lost would not be appropriate.

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 25 October 1983, indicating his narrative reason for separation as "Secretarial Authority," the separation authority as "MILPERSMAN 3630900," the separation code as "JFF," and the reentry code as "RE-1J."

That 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 Regulations, 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.

6/26/2024

