

d. On 25 September 1964, Petitioner received non-judicial punishment (NJP) for four hours of unauthorized absence (UA). On 27 December 1964, Petitioner received NJP for failure to go to his appointed place of duty and failure to muster at the prescribed time. On 16 January 1965, Petitioner received NJP for two hours of absence from appointed place of duty. On 9 September 1965, Petitioner received NJP for eleven days of UA from 28 August 1965 to 8 September 1965.

e. During a 5 October 1965 neuropsychiatric evaluation, Petitioner disclosed in-service homosexual conduct, in addition to a history of being repeatedly molested at age eleven by a family friend. Petitioner was diagnosed with inadequate personality and sexual deviation and was recommended for discharge due to unsuitability.

f. On 14 October 1965, Petitioner requested at good of the service discharge to avoid trial by court martial for homosexual conduct. Petitioner's Commanding Officer and the Enlisted Performance Evaluation Board recommended approval of Petitioner's request with an undesirable discharge. The separation authority directed an undesirable discharge by reason of unfitness – Code 253 (homosexual conduct) and, on 22 November 1965, he was so discharged.

g. Petitioner admits he engaged in a homosexual relationship but that his discharge should reflect his service, not his personal life.

h. For purposes of clemency and equity consideration, the Board noted Petitioner did not provide documentation describing post-service accomplishments or advocacy letters.

i. 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 normally grant requests to change the characterization of service to "Honorable," or "General (Under Honorable Conditions) (GEN)," narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," and the 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, and especially in light of references (b) and (c), the Board concludes Petitioner's request warrants relief. The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality. However, the Board noted that Petitioner's record contains aggravating factors; specifically, he received four NJPs for minor misconduct. Therefore, the Board determined Petitioner should received relief under reference (c) but that his characterization of service merits an upgrade only to GEN.

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

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. These included, but were not limited to, his desire for a discharge upgrade and the previously discussed contentions. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJPs, outweighed these mitigating factors.

Therefore, the Board was not willing to grant an upgrade to an Honorable discharge. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of the Petitioner's conduct and/or performance outweighed the positive aspects of his military record and that a GEN discharge characterization and no higher was appropriate. Further, the Board determined Petitioner's assigned reentry code remains appropriate based on his unsuitability for further military service. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 22 November 1965, indicating his character of service as "General (Under Honorable Conditions)" separation authority as "Art C-10306," separation code as "21L", narrative reason for separation as "For good and sufficient reasons (non-derogatory) when determined by proper authority."

That no further changes be made to Petitioner's record.

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 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.

7/16/2024

