



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

██████████
Docket No. 6013-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████, USN,
XXX-XX-██████████

Ref: (a) 10 U.S.C. §1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) 10 U.S.C. 654 (Repeal)
(d) 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
(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his record be changed consistent with references (c) and (d), and that he be awarded the Good Conduct Medal (GCM). Enclosures (1) and (2) apply.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 2 December 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, and applicable statutes, regulations, and policies, to include references (b) through (d). In addition, the Board considered enclosure (4), an advisory opinion from a qualified mental health professional. Although Petitioner was provided an opportunity to respond to the AO, he chose not to do so.

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.

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c. Petitioner enlisted in the Navy and began a period of active service on 8 May 1984. On 23 May 1985, he received non-judicial punishment (NJP) for possession of marijuana. He was additionally issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct, and advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 23 October 1987, he again received NJP, on this occasion for sodomy and assault.

d. Unfortunately, some of the documents related to Petitioner's separation from the Navy absent from his Official Military Personnel File (OMPF), however, a naval message dated 8 January 1988, directs his discharge for "homosexuality" with an Other Than Honorable (OTH) characterization of service, and a reenlistment code of RE-4. Further, his DD Form 214 indicates he was discharged on 3 February 1988, with an OTH characterization of service for "Homosexuality – Engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts," a reentry code of "RE-4," and a separation code of "HRC;" which corresponds with homosexuality.

e. Petitioner contends he enlisted and served honorably during basic training, A School, [REDACTED] School, and up until mid-1987, for a total of at least three years of "good conduct." He states that when the issues that caused his discharge came to light, he was put on restricted duty to attend Captain's Mast on board the [REDACTED], and then reassigned to transit barracks in [REDACTED] to await discharge. He contends the injustice he suffered is that during the time he spend awaiting separation he was not afforded counseling or a mental health exam, or even the opportunity to speak to a chaplain about his underlying reasons for his supposed misconduct and engagement in homosexual acts. As a result of his discharge, he contends he has had a lifetime of shame and addiction that he has struggled with until now. In support of his application, he provided service record documents, his personal statement, a letter from [REDACTED] (a rehabilitation facility) congratulating him on his progress, and counseling records.

f. Reference (d) 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," narrative reason for discharge to "Secretarial Authority," separation 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.

g. Petitioner's case was previously heard and denied by the Board on 24 August 2015. At that time, the Board found as an aggravating factor the fact that Petitioner engaged in homosexual conduct while at sea.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that Petitioner's request warrants partial relief.

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Specifically, the Board determined that, although aggravating factors do exist in his record¹, he was issued a counseling retention warning following that NJP and was ultimately discharged solely for his homosexuality. The Board also noted that although he was charged with "assault" at NJP, the record contains no other evidence of assault and documents Petitioner was ultimately separated for homosexuality alone. Therefore, while the Board does not necessarily disagree with the rationale relied upon in the prior Board decision, the Board determined, in keeping with the letter and spirit of reference (c), it was in the interests of justice to change Petitioner's record consistent with existing guidance.

Notwithstanding the recommended corrective action below, the Board was unable to find evidence supporting Petitioner's request to be issued a Navy GCM. Contrary to Petitioner's contentions, the Board found that the NJP Petitioner received in May 1985 disqualified him from earning the Navy GCM prior to his discharge in February 1988².

RECOMMENDATION

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 3 February 1988, indicating a characterization of service of "Honorable," a narrative reason for discharge of "Secretarial Authority," separation authority of "MILPERSMAN 1910-164," separation code of "JFF," and a reentry code of "RE-1J."

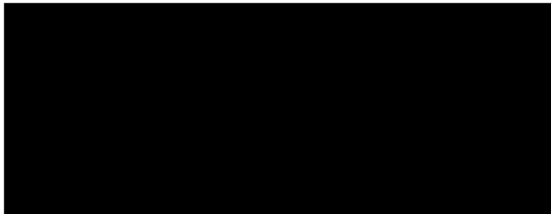
That Petitioner be issued an Honorable Discharge Certificate.

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.

1/7/2025



¹ NJP for possession of marijuana.

² The Navy GCM requires three years of continuous service without disqualifying misconduct.