



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

[REDACTED]  
Docket No. 6927-24  
Ref: Signature Date

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

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

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 w/attachments  
(2) Naval record (excerpts)

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 his record be changed consistent with references (b) and (c).

2. The Board, consisting of [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 7 October 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, 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner enlisted in the U.S. Navy and began a period of active duty on 5 September 1974.

c. On 1 February 1977, Petitioner commenced a period of unauthorized absence (UA). Petitioner's UA terminated on 3 March 1977.

d. Upon his return, Petitioner admitted to committing several acts of voyeurism, attempting to look into the bedroom windows of various residences late at night in an effort to observe men

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and women engaged in sexual activity. The Petitioner disclosed that these incidents occurred over a period of approximately 18 months, and when such observations were made, he would masturbate. Additionally, the Petitioner admitted to participating in a homosexual act with another Sailor and to in-service use of marijuana and hashish.

e. On 29 April 1977, Petitioner was convicted at a Summary Court-Martial (SCM) for his UA and was sentenced to hard labor for 30 days.

f. On 25 May 1977, Petitioner was notified of administrative separation processing due to homosexual act. He waived his procedural rights to consult with counsel, to have his case heard before an administrative discharge board, and to submit a statement. Ultimately, on 15 June 1977, the Petitioner was discharge for homosexual acts with a General (Under Honorable Conditions) (GEN) characterization of service.

d. Petitioner contends that: (1) his only offense was admitting to being gay, (2) he had a promising career in the nuclear propulsion program before being questioned about his sexuality. When asked, he told the truth, which resulted in a GEN discharge during the pre-Don't Ask, Don't Tell (DADT) era, (3) for the past 47 years, he has lived with the burden of this less than Honorable discharge, (4) with the repeal of DADT in 2011, and under the guidance of the Stanley Memo, which directs boards to generally upgrade discharges to Honorable when there are no aggravating factors, he seeks expedited relief, and (5) in this case, no aggravating factors exist, and he respectfully requests an upgrade to Honorable.

e. Reference (c) sets forth the Department of the Defense'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 guidance to grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," SPD code to "JFF," and reenlistment 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.

f. For purposes of clemency and equity consideration, Petitioner provided correspondence from The Veterans Consortium, official military personnel file (OMPF) documents, and a SPN Code Definitions document in support of his application.

## CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board noted that the Petitioner's record indicates he was discharged solely on the basis of homosexuality. Therefore, the Board found that Petitioner was entitled to some relief under reference (c). Specifically, the Board determined it was in the interests of justice to change Petitioner's basis for separation to reflect a "Secretarial Authority" discharge.

Notwithstanding the recommended corrective action below, contrary to Petitioner's contention, the Board noted there was significant aggravating factors within his record related to his SCM and admission of voyeurism. Therefore, the Board was not willing to grant an upgrade to an

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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.

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 new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 15 June 1977, Petitioner's narrative reason for separation was "Separation for other good and sufficient reasons when determined by the Secretary of the Navy," the SPD code assigned was "JFF," the separation authority was "BUPERSMAN 3850220," and the reentry code was, "RE-1J."

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

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that 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.

10/31/2024

