



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

██████████
Docket No. 7588-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 28 October 2024. The names and votes of the panel members will be furnished upon request. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include 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, including the 26 January 2013 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Stanley Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You previously applied to this Board requesting that your narrative reason for separation, separation program designator code (SPD), and reenlistment code be changed pursuant to the repeal of DADT. Your request was granted on 15 March 2017, resulting in change of your narrative reason for separation to "Secretarial Authority," change of your SPD code to "JFF," change of your reenlistment code to "RE-1J," and change of your separation authority to read "MILPERSMAN 1910-164." You were also issued a new DD Form 214. The facts of your case remain substantially unchanged.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Stanley and Wilkie Memos. These included, but were not limited to, your desire to adjust your separation date to provide

constructive active duty credit for the remaining period of service that was unjustly terminated due to the DADT policy in place at the time of your discharge. You also requested change of your narrative reason of separation to secretarial authority, change of your separation code to JFF, change of your reentry code to RE-1J, and a discharge upgrade to Honorable¹. You contend you were unjustly discharged just one month shy of your two year commitment, so it is in the interest of justice to grant you one month of constructive service to give you the two years minimum in service that are required to obtain Department of Veterans Affairs (VA) benefits you are entitled to as an Honorably discharged veteran. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application, including a VA Consortium document and documents from your 2017 BCNR application.

After thorough review, the Board concluded insufficient evidence of error or injustice exists to merit a change to your record. In making this finding, the Board noted that the Stanley Memo states, “the Department [of the Navy] will not authorize compensation of any type, including retroactive full separation pay, for those previously separated under 10 U.S.C. 654 and its implementing regulations.” As a result, the Board decided you are not entitled to constructive credit based on your DADT-based separation from the Navy. Ultimately, the Board concluded that any injustice resulting from your discharge was already addressed by the Board’s previous grant of relief. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

11/14/2024

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¹ Because this Board granted these requests in their previous decision and you already possessed an Honorable discharge characterization of service, your only outstanding request pertains to adjustment of your separation date.