



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

█
Docket No. 7855-24

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) 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 █, █ and █, reviewed Petitioner's allegations of error and injustice on 8 November 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 Reserve and began a period of active duty on 27 October 1976.

c. On 20 July 1977, Petitioner submitted a statement admitting to engaging in homosexual acts prior to his entry into the Navy. He also admitted that his sexual views have remained unchanged.

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d. Consequently, Petitioner was notified of administrative separation processing for misconduct due to fraudulent enlistment. He waived his procedural rights to consult with counsel and to have his case heard before an administrative discharge board.

e. Petitioner's commanding officer forward the administrative package to the separation authority (SA) recommending Petitioner be discharged with an Honorable characterization of service adding, "[Petitioner] is a singularly productive personnelman whose clerical expertise is underscored by complete dedication to the job. His conduct on board is beyond reproach except for mannerisms and one incident that invited an inquiry as to his sexual orientation."

f. The Separation Authority directed his separation for misconduct with a General (Under Honorable Conditions) (GEN) characterization of service and, on 10 August 1977, Petitioner was so discharged.

g. Petitioner contends the following injustices warranting relief:

(1) He was discharged solely due to his sexuality;

(2) The Navy directed psych evaluations and determined he could no longer serve, although he had no military infractions during his service;

(3) He was demoralized, and many years later still feels cheated; and

(4) He would like the Navy to recognize this mistake and take appropriate action as he is aware times have changed.

h. 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 normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," and a SPD code to "JFF," 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, the Board concludes that Petitioner's request warrants relief. The Board noted that the Petitioner's record indicates he was discharged solely on the basis of homosexuality and found no aggravating factors within his record. Therefore, the Board found that Petitioner was entitled to full relief under reference (c).

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:

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That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 10 August 1977, Petitioner's characterization of service was "Honorable," the 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 Petitioner be issued an Honorable Discharge Certificate.

That no further correction action be taken on Petitioner's naval 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.

12/4/2024

