



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

██████████
Docket No. 7898-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
██████████ USMC

Ref: (a) 10 U.S.C. 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo OF 20 Sep 11 (Correction of Military Record following Repeal of U.S.C. 654)

Encl: (1) DD Form 149
(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 that his naval record be corrected in accordance with references (b) and (c). In addition, he requested his paygrade be changed to E-2. Enclosure (2) applies.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 4 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, and 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.

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.

c. Petitioner enlisted in the Marine Corps and commenced a period of active duty on 9 October 1984. On 8 January 1985, Petitioner was the subject of a meritorious mast.

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[REDACTED] USMC

d. On 4 February 1985, during a medical evaluation Petitioner admitted he was a homosexual. Consequently, Petitioner was notified of the initiation of administrative separation proceedings by reason of fraudulent enlistment due to homosexuality. The separation authority approved and directed Petitioner's discharge with an entry level character of service by reason of homosexual involvement. Ultimately, Petitioner was so discharged on 30 March 1985.

e. References (b) and (c) set 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," SPD 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.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) and (c), the Board determined that partial relief is warranted.

The Board found no aggravating factors in Petitioner's record and observed he was discharged solely for based on his homosexual orientation. Therefore, the Board determined he was entitled to full relief under reference (c). The Board noted Petitioner was discharged within his 180 days of active duty but determined it was in the interests of justice to grant an Honorable characterization of service based on the fact he was discharged approximately eight days before qualifying for a characterized discharge and he was the recipient of a meritorious mast. The Board determined the unique circumstances of Petitioner's case warranted their action.

Notwithstanding the recommended corrective action below, the Board found no basis to grant Petitioner's request to change his paygrade to E-2. While the Board noted his meritorious mast, they found no evidence he was actually promoted to E-2 prior to his discharge. Ultimately, the Board determined their extraordinary relief in granting Petitioner an Honorable characterization, in addition to the relief associated with reference (c), was sufficient to eliminate any injustice in his record.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) and new discharge certificate, for the period ending 30 March 1985, indicating his character of service was "Honorable," with a narrative reason for separation of "Secretarial Authority" and separation code of "JFF," under the separation authority of "MILPERSMAN 1910-164," with a reentry code of "RE-1J."

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

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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.

10/29/2024

