



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

[REDACTED]  
Docket No. 8669-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
USN, XXX-XX-[REDACTED]

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 characterization of service be upgraded with changes to his narrative reason for separation and separation and reenlistment codes to reflect a Secretarial Authority discharge. In addition, he requests constructive credit for active duty time remaining in his contract. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 3 February 2025 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). Additionally, the Board considered an advisory opinion (AO) from a qualified mental health professional. The AO was considered favorable toward Petitioner.

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 26 October 1981.
- d. On 2 March 1982, Petitioner received non-judicial punishment (NJP) for wrongfully possessing alcoholic beverages in his quarters. On 16 May 1983, he received NJP for unauthorized absence (UA), between 16 May and 14 June 1983, and sodomy.
- e. Consequently, Petitioner was notified of administrative separation processing by reason of homosexuality. Petitioner waived his rights in relation to the process and his Commanding Officer recommended discharge with characterization of service as warranted by Petitioner's service record. After appropriate review, Petitioner was discharged with a General (Under Honorable Conditions) (GEN) characterization on 11 July 1983.
- f. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 31 October 1983, based on their determination the discharge was proper as issued.
- g. Petitioner contends his contract was unfairly terminated and he was sexually assaulted by a superior. For purposes of equity and clemency consideration, he provided a legal brief with exhibits.
- h. As part of the Board's review, a qualified mental health professional reviewed Petitioner's contentions and the available records and provided the Board with an AO on 21 January 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. However, there is evidence that he was "hit by an unknown person" which is consistent with his statement. There is evidence of a separate incident whereby there was a laceration to his head – the etiology is not documented in his record. It is possible that he was in fact assaulted and therefore went UA out of fear. His personal statement is fairly detailed describing possible MST in service.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of a mental health condition that may be attributed to military service. There is sufficient evidence to attribute his misconduct to a mental health condition."

- j. 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.

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## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. The Board reviewed the application under the guidance provided in references (b) and (d).

The Board noted Petitioner was discharged based solely due to a homosexual admission; however, the Board also noted aggravating factors in his record. Therefore, the Board found that Petitioner merits only partial relief under reference (c).

Specifically, the Board found no error or injustice with Petitioner's GEN characterization of service discharge given his misconduct unrelated to homosexuality. The Board was not willing to grant an upgrade to an Honorable (HON) discharge. The Board determined that an HON 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 opined, Petitioner's characterization was appropriate given his performance marks prior to his NJP for UA and sodomy; which were not sufficient to warrant an HON characterization of service. Additionally, the Board noted that his initial misconduct occurred prior to the homosexuality related misconduct that formed the basis for the favorable AO. However, because the Board determined Petitioner was processed due to homosexuality, it was determined it was in the interests of justice to change his DD Form 214 to reflect a "Secretarial Authority" discharge. After reviewing the record liberally and holistically, given the totality of the circumstances, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

Regarding Petitioner's request for constructive credit, the Board noted the Stanley Memo which 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 Petitioner was not entitled to constructive credit based on his DADT-based separation from the Navy.

## RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 11 July 1983, reflecting that his narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the separation authority was "MILPERSMAN 1910-164," and the reentry code was "RE-1J."

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

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.

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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.

3/3/2025

