



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

██████████
Docket No. 9648-24

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN,
XXX-XX-██████████

Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. 654 (Repeal)
(c) UNSECDEF Memo of 20 Sep 11 (Repeal of 10 U.S.C. 654)
(d) USECDEF Memo of 25 July 2018 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures

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 discharge be upgraded to an Honorable character of service. Enclosure (1) applies.
2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 14 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, applicable statutes, regulations, and policies, to include references (b) through (d).
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 and began an initial period of active duty on 30 October 1962. However, a psychiatric evaluation in December 1962 identified him as an emotionally inadequate youth who experienced increased anxiety, low self-esteem, and low stress tolerance. Following an Aptitude Board Report which recommended his separation, he was honorably discharged for unsuitability.

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c. Petitioner subsequently reenlisted, was granted a waiver for his previous discharge, and began a second period of active duty on 20 March 1964.

d. On 29 July 1964, Petitioner absented himself without authority and remained absent until his return to military control on 11 September 1964.

e. On 1 October 1964, Petitioner was convicted by a Special Court-Martial (SPCM) for his violation of Article 86 of the Uniform Code of Military Justice (UCMJ). His sentence included a reduction to the paygrade of E-1, four months confinement at hard labor, and \$55 forfeiture of pay per month during his period of confinement. However, the Convening Authority approved only two months confinement.

f. On 13 October 1964, Petitioner made a statement to criminal investigators regarding his various sexual activities with several civilian males during his period of unauthorized absence. This statement resulted in a preferral of charges under UCMJ for violation of Article 125 due to alleged commission of sodomy with a civilian male at an off-base hotel in August of 1964. However, his account of the events changed in a subsequent statement on 3 November 1964; retracting a significant portion of his previous admissions but still acknowledging participation in homosexual acts.

g. Rather than proceed to court-martial on charges, Petitioner's commanding officer processed him for discharge by reason of unfitness due to Class II homosexuality; based upon his previous admission. Petitioner waived a field board and he was recommended for an undesirable discharge (OTH) by reason of unfitness. His separation was approved, and he was so discharged on 10 November 1964.

h. Reference (c) 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," the separation code to "JFF1," and the 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, the Board concluded that the Petitioner's request warrants partial relief. The Board reviewed his application under the guidance provided in references (b) through (d).

Consistent with reference (c), the Board determined it was in the interests of justice to change Petitioner's basis for separation to reflect a Secretarial Authority discharge based on his administrative separation processing based solely on his admission of homosexual behavior.

Notwithstanding the recommended corrective action below, the Board determined Petitioner's assigned characterization of service remains appropriate. In making this finding, the Board

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noted Petitioner's record contains aggravating factors of misconduct. The Board observed that Petitioner committed serious misconduct by absenting himself without authority for more than 40 days. During that time, his self-reported actions included participation in sexual activity for money; which was legally prohibited regardless of the identity or preferences of either participant. The Board found that Petitioner's misconduct constituted a significant departure from the behavior expected of an active duty service member, without respect to the policies covered under references (b) through (d). As a result, the Board concluded that the mitigating factors Petitioner submitted for consideration were insufficient to outweigh the severity of his misconduct and, regardless of the policies covered under references (b) through (d), his misconduct continues to warrant an OTH characterization of service.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that, for the period ending 20 November 1964, he was discharged under the separation authority of "BUPERS Manual Art. C-10306" with a "21L" separation code with a narrative reason for separation of "Other good and sufficient reasons (non-derogatory) when determined by proper authority."

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

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.

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.

3/13/2025

