



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

■  
Docket No. 9946-24  
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,  
SERVICE NUMBER ■■■■■■■■■■

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 member's spouse, on behalf of subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting a change to his record consistent with references (b) and (c).

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, ■■■■■■■■■■, reviewed Petitioner's allegations of error and injustice on 12 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) 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 Navy and began a period of active duty on 4 October 1955.

c. During the period from 24 May 1956 to 24 September 1957, Petitioner received four instances of non-judicial punishments (NJP). The offenses were disrespect in language, a period of unauthorized absence, hitchhiking, and disobedience of a lawful order of a noncommissioned officer.

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d. On 27 February 1959, Petitioner provided a voluntary statement to an Investigator that he played a passive role in homosexual activities on numerous occasions.

e. Subsequently, Petitioner accepted an agreement to be administratively discharge with an Undesirable (Other Than Honorable (OTH)) discharge for the good of the service to escape trial by court-martial.

f. On 3 March 1959, Petitioner's commanding officer recommended to the separation authority that Petitioner receive an OTH characterization of service discharge.

g. On 23 March 1959, the separation authority directed Petitioner's administrative discharge from the Navy by reason of unfitness with an OTH characterization of service.

h. Ultimately, on 7 April 1959, Petitioner was discharged from the Navy for unfitness with an OTH characterization of service.

i. The spouse of the Petitioner contends Petitioner was discharged secondary to "gay sex, sexual orientation."

j. For purposes of clemency and equity consideration, the Board considered the documentation provided in support of the application.

k. 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," SPD code to "JFF," and reenlistment 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 determined that Petitioner's request warrants relief.

The Board found no error in Petitioner's administrative discharge processing. However, the Board considered the totality of the circumstances to determine whether relief is warranted in the interests of justice in accordance with references (b) and (c) and concluded that the mitigating circumstances in Petitioner's case support relief.

The Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality. While the Board noted the aggravating factor of misconduct in Petitioner's record, the Board determined Petitioner's characterization of service should be upgraded to Honorable consistent with existing policy

Furthermore, the Board concluded that the record should be changed to reflect a less stigmatizing reason for separation by changing the narrative reason for separation, reenlistment code, SPD

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code, and separation authority to reflect a Secretarial Authority discharge. Ultimately, the Board concluded that any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

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:

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214 reflecting that, for the period ending 7 April 1959, Petitioner's character of service was "Honorable," narrative reason for separation was "Other good and sufficient reasons (non-derogatory) when determined by proper authority," separation authority was "Art. C-10306 BuPers Manual," and code was "21L."

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.

3/6/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]