



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

[REDACTED]
Docket No. 10317-24
Ref: Signature Date

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

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

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 with attachments
(2) Case summary

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 her record be changed to show that she completed four years of service.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error on 13 January 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of her naval service records, 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, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

c. Petitioner enlisted in the Navy and began a period of active service on 10 January 2000. On 9 October 2001, she made a voluntary admission of homosexual conduct. Consequently, Petitioner was notified with intended administrative separation by reason of homosexual conduct as evidenced by her admission. She waived all rights except for the right to obtain copies of documents used in the separation process. Subsequently, her commanding officer recommended

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she be discharged in with an Honorable (HON) characterization of service based on her demonstrated service. She was so discharged on 8 November 2001.

d. Petitioner has no history of misconduct in her official naval record.

e. Petitioner contends she was discharged under Don't Ask Don't Tell and requests constructive credit of four years.

f. 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," 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. The policy further states in pertinent part:

Although DADT is repealed effective September 20, 2011, it was the law and reflected the view of Congress during the period it was the law...Similarly, DoD regulations implementing various aspects of DADT were valid regulations during that same period...the issuance of a discharge under DADT or that taking of an action pursuant to DoD regulations related to a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Thus remedies such as correcting a record to reflect continued service with no discharge, restoration to a previous grade or position, credit for time lost...would not normally be appropriate.

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 (c). The Board noted Petitioner was discharged based solely due to a homosexual admission and found no evidence of aggravating factors in her record. Therefore, the Board determined it was in the interests of justice to change her reason for separation to reflect a Secretarial Authority discharge.

Regarding Petitioner's request for constructive credit, the Board determined insufficient evidence of error or injustice exists to support her request. In making this finding, the Board relied on the guidance provided by reference (c) which states such remedies are not normally appropriate. The Board found no evidence that Petitioner's case was extraordinary in fact to require the requested relief.

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RECOMMENDATION:

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

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 8 November 2001, indicating a narrative reason for discharge of "Secretarial Authority," authority of "MILPERSMAN 1910-164," separation code "JFF," and a reentry code of "RE-1J."

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

4. It is certified a quorum was present at the Board's review and deliberations, and 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.

2/7/2025

