



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

██████████
Docket No. 10432-24
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, XXX-XX-██████████

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)
(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

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 his naval record be corrected by changing his record consistent with references (b) and (c).

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 25 November 2024 and, pursuant to its regulations, determined 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.

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 Navy and began a period of active duty on 9 September 1980. On 5 August 1982, Petitioner received nonjudicial punishment (NJP) for making false statements. After admitting to participating in homosexual acts, Petitioner was notified of the initiation of administrative separation proceedings in November 1982 and decided to waive his procedural rights. Subsequently, the Petitioner's commanding officer recommended that he be

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administratively separated with a discharge characterization of service by type warranted by his service record for the reason of homosexuality. The separation authority approved the recommendation and Petitioner was discharged with a General (Under Honorable Conditions) (GEN) characterization on 2 December 1982.

d. 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 upgrade the characterization of service to Honorable, change the 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.

e. Petitioner contends he was told that he only missed Honorable by 0.4 on his personnel evaluations. Petitioner believes his discharge was unfair as he was wrongfully given a GEN characterization due to prejudice that is not applicable at this time. Petitioner feel as he was railroaded into writing a confession of something that was very embarrassing at the time, and that confession was then used to make an example of him by discharging him and including derogatory information on his discharge documents. Even though everything he wrote in that confession was technically true, Petitioner claims he never considered himself to be characterized by those names/titles. Shortly after leaving the Navy, Petitioner got together with his current wife. Petitioner states they have been married for over 41 years and he have never been unfaithful to her in any way. Petitioner claims he does not in any way consider himself to be any form of LGBTQ+. Petitioner states in 1989, he became a Christian and have been totally healed from his past. Petitioner also claims in 1994, he became ordained as a minister of the gospel. Petitioner contends he have held his current job as a stainless steel fabricator for over 40 years. Petitioner states not being able to show his DD Form 214 because of the derogatory items on it has cost him many opportunities to better his life and get rewards for his service to his country. Petitioner was recently informed that he is probably eligible for Department of Veterans Affairs (VA) health benefits but he is required to send in a copy of his DD Form 214. He states he would really rather not do that with the derogatory information that is on it. Petitioner states that getting these changes made and VA Health benefits would allow him to retire soon. Otherwise, he still has to wait 2.5 years and worries about being physically able to do so with his current health issues.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of references (b) through (c), the Board concludes Petitioner's request warrants partial relief.

The Board noted Petitioner's record supports that he was solely discharged on the basis of his homosexual admission. However, the Board found aggravating factors in Petitioner's record based on his NJP and determined his GEN characterization of service is supported by his record. Therefore, the Board determined Petitioner is only entitled to partial relief under reference (c) in the form of changing his narrative reason for separation, separation authority, separation code, and reentry code.

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The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in Petitioner's case in accordance with the Wilkie Memo. These included, but were not limited to, his desire for a discharge upgrade and contentions previously discussed. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his NJP, outweighed these mitigating factors. In making this finding, the Board noted absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Ultimately, the Board found that any injustice in Petitioner's record was adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 indicating, for the period ending 2 December 1982, his narrative reason for separation was "Secretarial Authority," separation authority was "MILPERSMAN 1910-164," separation code was "JFF", and reentry code was "RE-1J."

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

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

5. 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.

6. 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.

12/30/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]