



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

██████████
Docket No. 11454-24

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)

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 DD Form 214 be changed consistent with references (b) and (c). In addition, Petitioner requests a "length of service requirement" exception.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error on 18 December 2024 and, pursuant to its regulations, determined that 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 his naval service records, and applicable statutes, regulations, and policies to included 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, it is in the interest of justice to review the application on its merits.

c. Petitioner enlisted in the U.S. Navy and began a period of active duty on 1 September 1987. On December 1989, Petitioner was seen by a medical professional and he cited concerns for his present health due to being involved with a homosexual partner that had tested positive for HIV.

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

d. Petitioner's record is incomplete, in that it does not contain the documents pertinent to the administrative separation processing. However, whenever official records are incomplete or unavailable, unless there is substantial credible evidence to rebut the presumption, the Board can presume a regularity in the conduct of the government affairs. Petitioner's DD Form 214, reveals he was separated from the Navy, on 5 March 1990, with an Honorable characterization of service, his narrative reason for separation is "Homosexual Conduct - Admission," his separation code is "HRB," and his reenlistment code is "RE-4."

e. 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 grant requests to change the narrative reason for separation to "Secretarial Authority," SPD 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. Reference (c) 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 noted Petitioner was discharged for homosexuality with no aggravating factors in his record. Therefore, the Board found that it was in the interests of justice to change his narrative reason for separation, separation code, separation authority, and reentry code consistent with the guidance provided in reference (c).

Notwithstanding the recommended corrective action below, the Board determined Petitioner's request for a "length of service requirement" exception was not supported by current guidance. As explained earlier, reference (c) states that Petitioner's discharge was not an error or injustice that otherwise invalidates the actions taken by the Navy. Therefore, remedies such as service credit are not normally appropriate. After reviewing the record, the Board found no

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

extraordinary circumstances with Petitioner's case to merit the granting of the request for service credit¹.

RECOMMENDATION:

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

That Petitioner be issued a new Certificate of Release from Active Duty (DD Form 214), for the period ending 5 March 1990, indicating that Petitioner's narrative reason for separation was "Secretarial Authority," the SPD code assigned was "JFF," the reenlistment code was "RE-1J," and the separation authority was "MILPERSMAN 1910-164."

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.

1/9/2025

[REDACTED]

¹ The Board considered that Petitioner may be referring to the Department of Veterans Affairs service length requirements for eligibility for certain veterans benefits. However, this Board has no statutory authority to grant requests under the purview of other federal agencies.