



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

[REDACTED]  
Docket No. 12087-24  
Ref: Signature Date

346767From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [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 the word "homosexuality" be removed from his DD Form 214, his rank be restored to E4, and he be paid any lost wages, or receive any benefits lost, due to his reduction of rank; consistent with references (b) and (c).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED]n, reviewed Petitioner's allegations of error on 27 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 his 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 26 June 1990. On 31 August 1992, Petitioner admitted to homosexual conduct while off base. As a result, he received non-judicial punishment (NJP) for violation of Article 125 of the Uniform Code of Military Justice (UCMJ)—sodomy. As punishment he was reduced in rank to paygrade E3 and

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made to forfeit \$250 per month for two months. On the same day, Petitioner was notified of intended administrative separation by reason of homosexuality. He waived his rights, but for the right to request copies of documents used in the process, and he was so discharged on 1 November 1992 with an Honorable characterization of service.

d. Petitioner contends he was discharged from the Navy solely due to homosexuality. He did not provide any supporting documentation for his application.

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 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. 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 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 his record. Therefore, the Board found that Petitioner merits full relief under reference (c).

Notwithstanding the recommended corrective action below, the Board determined no additional relief was warranted. In making this finding, the Board considered the guidance provided in reference (c) that states the issuance of a discharge under DADT or the 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, any of his other requested remedies would not normally be appropriate. In reviewing Petitioner's case, the Board did not find

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extraordinary circumstances to merit a deviation from the guidance. Therefore, the Board determined any injustice in Petitioner's record is adequately addressed by the recommended corrective action.

RECOMMENDATION:

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

Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214), for the period ending 1 November 1992, indicating a narrative reason for discharge of "Secretarial Authority," separation authority of "MILPERSMAN 3630900," separation code "JFF," and a reentry code of "RE-1J."

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

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.

3/4/2025

