

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

> Docket No. 12210-24 Ref: Signature Date

- From: Chairman, Board for Correction of Naval Records
- To: Secretary of the Navy
- Subj: REVIEW OF NAVAL RECORD OF 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(3) Subject's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy, filed enclosure (1) requesting his naval record be corrected by upgrading the characterization of service on his Certificate of Release or Discharge from Active Duty (DD Form 214). Enclosures (1) through (3) apply.

2. The Board, consisting of **Constant of Petitioner's**, and **Constant of Petitioner's** allegations of error and injustice on 10 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, 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, 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 service on 21 February 1996.

d. On 11 March 1996, Petitioner disclosed to his chain of command that he was homosexual.

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e. On 18 March 1996, Petitioner was notified of administrative separation processing by reason of homosexual conduct with a least favorable characterization of Under Other Than Honorable conditions (OTH). Petitioner waived his rights to consult counsel, request a hearing before an administrative board, or provide a statement to rebut the separation. Petitioner's Commanding Officer recommended he be discharged with an uncharacterized entry level separation. The discharge authority approved the recommendation, and Petitioner was so discharged on 1 May 1996.

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," the separation code to "JFF1," and the 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.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. Specifically, the Board noted Petitioner's record supports that he was solely discharged on the basis of homosexuality with no aggravating factors and determined that his reason for separation should be changed in accordance with reference (c).

Notwithstanding the recommended corrective action below, the Board determined Petitioner's uncharacterized ELS discharge remains appropriate. Service regulations direct the assignment of an uncharacterized ELS discharge for service members processed for separation within their first 180 days of active duty. While there are exceptions to this policy involving misconduct or extraordinary performance, the Board determined neither exception applies in Petitioner's case.

RECOMMENDATION

That Petitioner be issued a new DD Form 214, for the period ending 1 May 1996, indicating his separation authority as "MILPERSMAN 3630900," separation code as "JFF," narrative reason for separation as "Secretarial Authority," and reenlistment code as "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 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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/7/2025

