



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

[REDACTED]  
Docket No. 0549-25  
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, [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 his characterization of service be upgraded consistent with references (b) and (c).

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error on 14 April 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 15 November 2004. On 16 February 2006, he received non-judicial punishment (NJP) for unauthorized absence (UA) for the periods of 8 November 2005 and 5 December 2005, and 7 January 2006 through 9 January 2006.

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d. On 4 March 2006, pursuant to an investigation, a Navy Chief provided a statement indicating she saw the Petitioner engaged in close embrace with a Sergeant and kissing the Sergeant on the mouth.

e. Consequently, Petitioner was notified of intended administrative separation by reason of homosexual conduct. He waived all rights related to the process and, on 25 May 2006, his commanding officer recommended his separation with an Other than Honorable (OTH) characterization of service. He was so discharged on 12 June 2006.

f. Post-discharge, Petitioner applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied his request, on 8 November 2011, based on their determination that his discharge was proper as issued.

g. Petitioner previously applied to this Board and was granted partial relief on 9 April 2018. At that time, the Board recommended Petitioner's discharge be upgraded to General (Under Honorable Conditions) (GEN) with a change of his narrative reason for separation and separation code to reflect Secretarial Authority. Petitioner's reentry code remained RE-4.

h. Petitioner contended that, while he admits he made one mistake while serving by going UA, if DADT had not been in effect, he would have served the rest of his time without outstanding character and discipline. He further contended he was undergoing treatment for PTSD related to an assault he sustained while serving which he believes was related to his UA and that he had been working on performing better as a Corpsman. He did not provide any evidence in support of his application.

i. 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.

## CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants relief. The Board reviewed the application under the guidance provided in references (b) and (c).

Although the Board noted, and does not condone, Petitioner's misconduct, the Board determined Petitioner was discharged solely due to homosexuality despite the existence of misconduct in his record. Therefore, the Board determined Petitioner's NJP did not amount to an aggravating factor and found Petitioner merits full relief under reference (c)<sup>1</sup>.

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<sup>1</sup> Despite making the determination that Petitioner is entitled to relief, the Board was not persuaded by Petitioner's argument regarding DADT denying him a career in the Navy. Although DADT was repealed, it was the law and

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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 12 June 2006, indicating a characterization of service of "Honorable."


That Petitioner be issued an Honorable Discharge Certificate.

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.

5/2/2025



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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. Therefore, the issuance of a discharge under DADT or that taking of an action pursuant to DoD regulations related to a discharge under DADT are not, by itself, be considered an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy.