



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

[REDACTED]
Docket No. 2405-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[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 record be changed consistent with references (b) and (c). Petitioner additionally requested constructive credit to reflect 24 months of active duty service, or in the alternate, change of the language of his DD Form 214 to reflect, "completion of required active duty."

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error on 4 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 27 September 1989. On 25 January 1990, he received non-judicial punishment (NJP), for unauthorized absence between 0730 on 15 January 1990, and 2230, on 16 January 1990. On 22 February 1990, Petitioner made a written request to his Commanding Officer (CO) for discharge on the

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grounds of homosexuality. Consequently, he was notified of intended administrative separation by reason of defective enlistment and induction, due to fraudulent entry, based on his admission of homosexuality. He waived all rights available to him in the process and his CO recommended he receive an entry-level separation. However, the separation authority ordered his discharge with a characterization type as warranted by his service. On 30 March 1990, he was discharged with a General (GEN) characterization for homosexuality.

d. 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).

Although the Board noted, and does not condone, Petitioner's misconduct, the Board determined he was discharged solely due to homosexual admission and determined his brief period of UA did not rise to the level of an aggravating factor in his record. Therefore, the Board found that Petitioner merits full relief under reference (c).

Regarding Petitioner's request for constructive credit, or in the alternative, change of the language of his DD Form 214 to reflect, "completion of required active duty," the Board was unwilling to grant this relief. In making this finding, the Board noted that reference (c) points out that credit for time list is not an appropriate relief under the guidance. In reviewing Petitioner's case, the Board found no extraordinary circumstances that would merit a deviance from the guidance. Ultimately, the Board determined the recommended corrective action addresses any injustice in Petitioner's record.

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[REDACTED]

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 30 March 1990, indicating a characterization of service of "Honorable," narrative reason for discharge of "Secretary Plenary Authority," separation authority of "MILPERSMAN 3630900," separation code of "JFF," and a reentry code of "RE-1."

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.

4/14/2025

[REDACTED]