



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

[REDACTED]
Docket No. 3179-25
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) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)
(c) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/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 an upgrade to his characterization of service and that his narrative reason for separation, separation authority, separation code and reentry code be changed to reflect "Secretarial Authority." Petitioner further requested that, once the corrections are made, the newly issued Certificate of Release or Discharge from Active Duty (DD Form 214) not contain any remarks indicating that it was corrected.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 21 July 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, 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 Petitioner's application 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 U.S. Marine Corps and began a period of active duty on 26 December 1984.

d. On 7 November 1988, an investigation resulted in allegations of Petitioner's involvement in homosexual conduct.

e. Consequently, Petitioner was notified he was being processed for administrative separation for homosexuality; at which time he elected his procedural right to consult with counsel and waived his right to present his case to an administrative discharge board. Additionally, he submitted a statement requesting a General (Under Honorable Conditions) characterization of service; citing his demonstrated performance, assumption of increased responsibilities, receipt of Meritorious Masts recognition, and overall dedication to the Marine Corps. At the time of Petitioner's discharge from the Marine Corps, his proficiency and conduct averages were 4.7 and 4.7, respectively, exceeding the minimum required averages of 3.0 and 4.0 for an Honorable characterization of service.

f. On 14 December 1988, the Commanding Officer (CO) forwarded Petitioner's administrative separation package to the separation authority recommending he be discharged with an Other Than Honorable (OTH) characterization of service.

g. On 24 January 1989, in lieu of trial by court-martial, Petitioner voluntarily requested an administrative discharge under OTH conditions for alleged violations including sodomy, indecent acts, and solicitation; which were associated with his homosexual conduct¹.

h. On 31 January 1989, the separation authority approved the request and Petitioner was so discharged on 8 February 1989.

i. Petitioner contends his discharge was unjust because it was based solely on his admission that he had engaged in homosexual activities, and there were no aggravating factors alleged in his discharge paperwork. He further asserts that his record reflects consistently high performance marks throughout his service and this demonstrated the sole reason for his discharge was his admission of homosexuality. He cites the Stanley Memorandum, which emphasizes that "sexual orientation is a personal and private matter" in support of his application. For the purpose of clemency and equity consideration, the Board considered the evidence Petitioner submitted in support of his application.

j. Reference (b) 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

¹ It is unclear from the record why Petitioner submitted a separation in lieu of court-martial request after his CO recommended his administrative separation with an OTH due to homosexuality. Presumably, the CO's original recommendation was denied by the separation authority due to aggravating circumstances surrounding Petitioner's homosexual conduct, i.e. destruction of government property, sodomy, and solicitation of homosexual acts. Nonetheless, the Board noted that Petitioner received the same characterization of service originally recommended by his CO but with a narrative reason for separation that reflected his request for separation in lieu of trial by court-martial instead of homosexual conduct.

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. Although the Board acknowledged the charges of destruction of government property, solicitation, and sodomy, it found the additional misconduct was not so egregious to disqualify Petitioner from relief under reference (b)². Therefore, despite his discharge in lieu of trial by court-martial, the Board determined that Petitioner's record supports the finding that he was discharged solely on the basis of his sexual orientation.

Regarding Petitioner's request that the reissued DD Form 214 not reflect that it is a corrected copy, the Board noted that, in accordance with applicable policy, both the original and corrected version will remain in his official military record for historical and administrative purposes. Additionally, when a discharge is upgraded pursuant to the authority of the Board, policy requires that the DD Form 214 must annotate that the character of service has been upgraded, the date of the application for upgrade, and the effective date of the corrective action. While the Board carefully considered Petitioner's concerns regarding any stigma associated with any annotations of a change to his DD Form 214, they ultimately determined his concerns were outweighed by the Department of Navy's need for administrative regularity.

RECOMMENDATION

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 8 February 1989, he was discharged with an "Honorable" characterization of service, narrative reason for separation of "Determination of Service – Secretary of the Navy Plenary Authority," separation authority of "MARCORSEPMAN par. 6214," separation code of "JFF1", and reentry code of "RE-1." All other entries reflected on the Petitioner's current DD Form 214 are to remain unchanged.

That Petitioner be issued an Honorable Discharge Certificate.

That a copy of this record of proceedings be filed in Petitioner's naval record.

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

4. It is certified that 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 Regulations, 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

² Again, the Board noted that the reason for Petitioner's request for separation in lieu of trial by court-martial is unclear from the record. Therefore, the Board placed significant weight on the CO's original recommendation to process Petitioner solely for his homosexuality and not the related misconduct. In making this determination, the Board noted that Petitioner's additional misconduct was discussed in the CO's original recommendation.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

behalf of the Secretary of the Navy.

8/1/2025

