



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

[REDACTED]
Docket No. 5173-25

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) DEPSECDEF Memo, subj: Actions to Address Potential Injustices within Military Records of Former Service Members Administratively Separated Based on Their Sexual Orientation, 3 January 2025

(c) USD (P&R) Memo, subj: Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code, 20 September 2011

(d) USD (P&R) Memo, subj: Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations, 25 July 2018

(e) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) ASN (M&RA) Memo, subj: Group Application Pursuant to 10 U.S.C. §1552(b) – Similarly Harmed Veterans Administratively Separated Based Solely upon their Sexual Orientation with less than a Fully Honorable Characterization of Service since 1 January 1980

(2) DD Form 149

(3) DD Form 4, Armed Forces of the United States Enlistment/Reenlistment Document, 09 September 2003

(4) [Petitioner] Personal Statement, 18 January 2005

(5) [REDACTED] ([REDACTED]) CO Memo 1910 Ser 00/016, subj: Recommendation for Administrative Separation, 25 February 2005

(6) [REDACTED] ([REDACTED]), Notice of an Administrative Separation Processing Board Procedure, 20 April 2025

(7) C [REDACTED] Message, subj: Admin Discharge ICO [Petitioner], dtg 121007Z MAY 05

1. In accordance with subsection (b) of reference (a) and the terms of the settlement agreement in the case of *Farrell, et. al. v. U.S. Department of Defense, et. al.*, as implemented by reference (b), the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, on behalf of a group of similarly harmed Sailors and Marines whose DD Form 214 reflects that they were discharged due to their sexual orientation with less than a fully honorable characterization of service. The Subject, hereinafter referred to as Petitioner, filed enclosure (2) with the Board, thus opting in to this group application review. A preliminary review of enclosure (3) revealed that Petitioner met the criteria for inclusion in this group application.

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[REDACTED]

2. A three-member panel of the Board, meeting in executive session, conducted an individualized review of the Subject's naval record on 24 June 2025, and found sufficient evidence of an injustice warranting the corrective action recommended in paragraph 5 below. Documentary material considered by the Board included the enclosures; relevant portions of the Subject's naval record; and applicable statutes, regulations, and policies, to include references (c) and (d).

3. Factual Background. Following are the relevant facts of Petitioner's case based upon review of his naval record:

a. Petitioner enlisted in the U.S. Navy and began a period of active duty on 9 September 2003. See enclosure (3).

b. On 18 January 2005, Petitioner submitted a statement to his commanding officer admitting to his bisexuality. See enclosure (4).

c. By memorandum dated 25 February 2005, Petitioner's commanding officer recommended Petitioner be discharged from the Navy due to homosexual conduct with an honorable (HON) characterization of service. See enclosure (5).

d. By memorandum dated 20 April 2005, Petitioner was formally notified via administrative board procedures that he was being considered for administrative discharge by reason of homosexual conduct. See enclosure (6).

e. On the same date, Petitioner acknowledged the notification referenced in paragraph 3d above and waived all of his procedural rights with regard to the administrative board process. See enclosure (6).

f. By message dated 12 May 2005, the separation authority directed that the Subject be discharged from the Navy under HON conditions due to homosexual admission. See enclosure (7).¹

4. Conclusions.

a. In accordance with reference (c), the Board should normally grant requests to change the narrative reason for a discharge, requests to re-characterize the discharge to honorable, and/or requests to change the reentry code to an immediately-eligible-to-reenter category when both of the following conditions are met: (1) the original discharge was based solely on the former "Don't Ask, Don't Tell" (DADT) or similar policy in place prior to enactment of DADT and (2) there were no aggravating factors in the record, such as misconduct. While the record contains an instance of additional misconduct—specifically, nonjudicial punishment for three specifications of consensual sodomy—the Board determined that this did not constitute a separate basis for administration processing. Rather, the separation was solely based on Petitioner's homosexual admission. Accordingly, the Board found Petitioner's case falls within the general guidance of reference (c).

¹ Petitioner's Official Military Personnel File did not contain a Certificate of Release or Discharge from Active Duty (Dd Form 214).

b. In accordance with reference (d), the Board considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with reference (d). In this regard, the Board considered, amongst other factors, that bisexuality—and consensual same-sex relationships—are now permitted within the military and that a current Service member under the same circumstances today would therefore reasonably expect to receive a more favorable outcome than Petitioner received; that there was no other in-service misconduct in Petitioner's naval record; that Petitioner concealed his sexual orientation for the noble purpose of volunteering to serve his Nation; and the passage of time since Petitioner's discharge. Notably, the Board acknowledged that Petitioner received an honorable characterization of service; however, based upon these factors, the Board determined that additional equitable relief is warranted in the interests of justice.

c. The Board also found an injustice in the fact that the narrative reason for separation reflected on Petitioner's DD Form 214 includes a reference to his sexual orientation. Due to his narrative reason for separation, Petitioner must disclose personal information regarding his sexual orientation and/or previous sexual activity whenever he has cause to prove his military service for whatever reason. Other Sailors are not required to reveal such personal information when providing evidence of their former military service. This constitutes an unreasonable burden and violation of Petitioner's privacy interests.

5. Recommendation. Based upon the conclusions in paragraph 4 above, the Board recommends the following corrective action be taken on Petitioner's naval record:

a. That Petitioner be issued a new DD Form 214 reflecting that his character of service was "honorable"; that his narrative reason for separation was "Secretarial Authority"; that his separation authority was "MILPERSMAN 1910-164"; that his separation code was "JFF"; and that his reentry code was "RE-1."

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

c. That no further corrective action be taken on Petitioner's naval record.

6. 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 titled matter. I have assured compliance with the provisions of reference (e).

7. Pursuant to the delegation of authority set out in reference (e), the corrective action described above has been approved by the Board on behalf of the Secretary of the Navy in accordance with reference (a).

7/7/2025

