



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

█
Docket No. 6128-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
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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)
(d) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments
(2) Naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his discharge be changed consistent with references (b) and (c).

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 4 February 2026 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 Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b) through (d).

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. Although Petitioner did not file his application in a timely manner, the statute of limitation was waived in the interest of justice.

b. Petitioner enlisted in the U.S. Marine Corps and began a period of active duty on 27 January 1983. Following completion of a period of Honorable service, Petitioner immediately reenlisted for a second term of service on 23 July 1986¹.

c. A Naval Investigative Service (NIS) Report, dated 19 January 1990, reflects that Petitioner was under investigation based upon information provided by a protected witness

¹ Petitioner was issued a DD Form 214 for his first enlistment period.

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alleging that Petitioner primarily associated with minor dependents and had provided them with alcoholic beverages, cash, and clothing. The report stated the investigation developed information that Petitioner violated Uniform Code of Military Justice articles for attempted sodomy, indecent acts with a child, and contributing to the delinquency of a minor.

d. On 19 January 1990, Petitioner was formally notified that he was being processed for administrative separation from the Marine Corps by reason of homosexuality. Petitioner waived his procedural right to an administrative discharge board hearing after consulting with counsel.

e. On 7 February 1990, a Staff Judge Advocate conducted a legal review and determined that the information presented was sufficient in law and fact to support the recommended discharge. The SJA review further indicated:

[Petitioner] was under surveillance by the Naval Investigative Service for a period of a few weeks. The investigation documented [Petitioner's] associations with a select group of boys, primarily military dependents between the ages of 14 and 19. [Petitioner] was observed escorting some of these youths to a casino and local nightclubs. When interviewed by the Naval Investigative Service, several youths stated that [Petitioner] provided them with alcoholic beverages in his barracks room and occasionally gave them gifts of cash but did not make homosexual advances. However, one youth, provided a sworn statement detailing [Petitioner's] offer to pay him \$200.00 if [he] would allow [Petitioner] to engage in oral sodomy with him, [Petitioner's] admission to being a homosexual, and a report that he slept in [Petitioner's] room one night in April, and that [Petitioner] "put his hands on top of the covers and started touching my legs."

f. On 22 February 1990, the separation authority directed that Petitioner be discharged from the Marine Corps with a General (Under Honorable Conditions) (GEN) characterization of service by reason of homosexuality.

g. On 9 March 1990, Petitioner was discharged from the Marine Corps under GEN conditions due to homosexuality.

h. 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.

i. Petitioner contends that his discharge was predicated upon a policy that has since been repudiated, that he never admitted to homosexual conduct, and that his record reflects seven years of Honorable and decorated service. For purposes of clemency and equity consideration, Petitioner submitted a personal statement and two Certificates of Release or Discharge from Active Duty (DD Form 214).

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CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief under reference (c).

Specifically, the Board determined an injustice exists with Petitioner's narrative reason for separation. Petitioner's Certificate of Release or Discharge from Active Duty (DD Form 214) includes a reference to his sexual orientation. Due to the inclusion of this narrative reason for separation on his DD Form 214, 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 Service members are not required to reveal such personal information when providing evidence of their former military service. The Board concluded this constitutes an unreasonable burden and violation of Petitioner's privacy interests, and requires correction.

However, after thorough review, the Board found no error or inequity in Petitioner's assigned General (Under Honorable Conditions) (GEN) discharge.

First, the Board found Petitioner ineligible for a discharge upgrade under reference (c) since his record contains aggravating factors. In particular, the Board determined the NIS report of Petitioner's misconduct to be compelling and disqualifying for relief under reference (c). The Board noted Petitioner denied admitting to his homosexuality but did not deny other misconduct documented in the NIS report. Regardless, absent substantial evidence to the contrary, the Board found the presumption of regularity applies to the findings in the NIS report. Therefore, the Board determined that the record contained aggravating information arising from a NIS investigation and that this conduct reflected adversely on Petitioner's judgement and adherence to military standards, particularly in light of his position as a noncommissioned officer in the Marine Corps.

Second, the Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, Petitioner's contentions, the totality of Petitioner's service, Petitioner's relative youth and immaturity at the time of his misconduct, the negative effect Petitioner's discharge has had on his life, and the passage of time since Petitioner's discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any further equitable relief. Specifically, the Board found that the severity of Petitioner's misconduct far outweighed all of the mitigating factors combined. In particular, the Board found Petitioner's reported misconduct involving minors to be contrary to any notion of Honorable service. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's reported misconduct led them to conclude that his service was not Honorable. Based on the same rationale, the Board also determined Petitioner's assigned reenry code remains appropriate.

Accordingly, given the totality of the circumstances, the Board determined Petitioner's request for an upgrade of his characterization of service does not merit relief.

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RECOMMENDATION:

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

That Petitioner be issued a new DD Form 214 reflecting that, for the period ending 9 March 1990, Petitioner's was discharged with a narrative reason for separation of "Determination of Service Secretary – Secretary of the Navy Plenary Authority," separation authority of "MARCORSEPMAN par. 6214," and a SPD code of "JFF1."

That all other information currently listed on Petitioner's DD Form 214 remain the same.

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

That a copy of this record of proceedings be filed in Petitioner's naval 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 behalf of the Secretary of the Navy.

2/22/2026

