



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

Docket No. 7598-25
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,
XXX-XX-[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)
(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 upgraded.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 6 April 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.

b. Although enclosure (1) was not filed in a timely manner, it is in the interests of justice to review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 26 October 1965.

d. On 1 April 1966, Petitioner received nonjudicial punishment (NJP) for dereliction in the performance of his duties in violation of Article 92 of the Uniform Code of Military Justice (UCMJ). His punishment consisted of 10 days of extra duty.

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e. On 22 June 1966, Petitioner received a second NJP for a period of unauthorized absence in violation of Article 86 of the UCMJ. His punishment consisted of 10 days of extra duty and 30 days of restriction.

f. On 3 November 1967, Petitioner received a third NJP for disrespectful language toward his superior petty officer and for failing to obey a lawful order in violation of Articles 91 and 92 of the UCMJ. His punishment consisted of 20 days of confinement in a correctional custody unit.

g. On 26 April 1968, Petitioner admitted to homosexual conduct and was accordingly notified of the initiation of administrative separation processing. Petitioner acknowledged the notification, waived his procedural right to consult with counsel, and waived his right to have the case heard before an administrative discharge board.

h. On 29 April 1968, Petitioner requested to be discharged with an undesirable discharged in lieu of trial by court-martial. That same day, Petitioner's commanding officer recommended that he be discharged with an Other Than Honorable (OTH) characterization of service. The recommendation annotated that Petitioner admitted to LSD use on 16 April 1968.

i. The Separation Authority subsequently directed Petitioner's separation and, on 17 May 1968, Petitioner was discharged by reason of unfitness due to homosexuality with an OTH characterization of service.

j. 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.

k. Petitioner contends that changes in military policy regarding sexual orientation indicate his case would have been handled differently, such that he would not have been discharged and could have continued a naval career. For purposes of clemency and equity consideration, Petitioner submitted a personal statement and his Armed Forces of the United States Report of Transfer or Discharge (DD Form 214N).

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief.

Specifically, the Board determined that Petitioner was discharged based solely on his homosexual act and concluded the inclusion of a narrative reason for separation referencing Petitioner's sexual orientation on his DD Form 214 constitutes an injustice requiring correction. As a result of its inclusion, 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

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information when providing evidence of their former military service. This constitutes an unreasonable burden and violation of Petitioner's privacy interests.

However, the Board determined Petitioner was not entitled to full relief under reference (c) since his record contains the aggravating factor of misconduct. The Board noted Petitioner's record contains additional misconduct unrelated to the basis for separation that weighed against a fully honorable characterization of service. Thus, in light of the basis for separation and the overall record, the Board determined that an upgrade to General (Under Honorable Conditions) and no higher was appropriate under reference (c).

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with reference (d). In this regard, the Board considered, amongst other factors, Petitioner's desire for an upgrade to his characterization of service, Petitioner's contentions, the totality of Petitioner's service to include service highlights, Petitioner's relative youth and immaturity at the time of his misconduct, Petitioner's advanced age, and the passage of time since Petitioner's discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any 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 that Petitioner's conduct showed a complete disregard for military authority and regulations. The Board observed Petitioner was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct, which led to Petitioner's OTH discharge. Petitioner's conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Therefore, even taking into consideration all the mitigation factors in Petitioner's case, the Board found that his misconduct while on active duty outweighed the mitigation evidence offered. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of Petitioner's misconduct led them to conclude that his service was not Honorable.

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 Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 17 May 1968, Petitioner was discharged with a "General (Under Honorable Conditions)" characterization of service, narrative reason for separation of "Other good and sufficient reasons (non-derogatory) when determined by proper authority," SPD code of "21L," reenlistment code of "RE-1," and separation authority of "Art. C-10306 BUPERS Manual." That all other information currently listed on Petitioner's DD Form 214 remains 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.

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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.

4/20/2026

