



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█
Docket No. 35-26
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER █, █,
USN, XXX-XX-█

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 214, 26 July 1978
(4) DD Form 214, 18 February 1982
(5) Preliminary Investigation ICO [Petitioner], 12 March 1985
(6) NAVPERS 1070/607, Court Memorandum, 4 April 1985
(7) █ CO Memo 1910 1144, subj: Notice of an Administrative Board Procedure Proposed Action, 2 May 1985
(8) Petitioner Memo, subj: Statement of awareness and request for, or waiver of, privileges, 5 May 1985
(9) Report of administrative board, 22 June 1985
(10) █ Message, subj: Admin Disch ICO [Petitioner] dtg █
(11) Naval Discharge Review Board Decisional Document, █, █
(12) Board for Correction of Naval Records Decision Document, 13 December 2007

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

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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.

2. A three-member panel of the Board, meeting in executive session, conducted an individualized review of the Subject's naval record on 13 January 2026, 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 reenlisted in the U.S. Navy on 18 February 1982, after a period of honorable active service. See enclosures (3) and (4).

b. On 12 March 1985, a preliminary investigation was completed concerning the consensual sodomy in the base theater restroom. The investigation further reflects that the Petitioner admitted to the conduct, stated that he was not homosexual, characterized the incident as isolated, and asserted that he was intoxicated and depressed at the time and a passive participant. See enclosure (5).

c. On 4 April 1985, Petitioner received nonjudicial punishment (NJP) in violation of Article 125, Uniform Code of Military Justice (UCMJ).¹ His punishment consisted of the forfeiture of \$505.00 pay per month for one month, and 20 days of restriction and extra duties. See enclosure (6).

d. By memorandum dated 2 May 1985, Petitioner was formally notified that he was being considered for administrative discharge by reason of homosexuality and civil conviction. See enclosure (7).

e. On 3 May 1985, Petitioner acknowledged the notification referenced in paragraph 3d above and elected his procedural right to consult with counsel and to have his case heard before an administrative discharge board. See enclosure (8).

f. On 22 June 1985, an administrative discharge board was convened to consider Petitioner's case. By a vote of 3 to 0, the discharge board recommended he be discharged from the Navy with an other than honorable (OTH) characterization of service.² See enclosure (9).

¹ Petitioner committed consensual sodomy with another Service member. Per the Naval Discharge Review Board Report, Petitioner was charged by civil authorities for the consensual sodomy. NDRB's report further indicates Petitioner entered into a plea bargain, pled guilty to soliciting, and was sentenced to six months in the [REDACTED] City Jail which was suspended for one year, and fined \$250.00.

² Although the administrative board worksheet of findings and recommendations does not reflect the date of the board proceedings, this information is documented in the in the Record of Proceedings.

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g. By message dated 22 December 1985, the separation authority directed Petitioner's discharge from the Navy by reason of homosexuality, with an OTH characterization of service. See enclosure (10).

h. On 31 December 1985, Petitioner was discharged from the Navy under OTH conditions due to homosexuality.³ See enclosure (4).

i. On ██████████, the Naval Discharge Review Board (NDRB) denied Petitioner's request for an upgrade of his characterization of service. See enclosure (11).

j. On 12 December 2007, this Board denied Petitioner's request for an upgrade of his characterization of service. See enclosure (12).

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. Petitioner, however, was not discharged solely due to his homosexuality. Although only one narrative reason for separation appears on his DD Form 2145, Petitioner was processed for separation on the bases of homosexuality and civil conviction. Accordingly, the case does not fall within the general guidance of reference (c).

b. In accordance with reference (d), the Board considered, amongst other factors, that homosexuality is 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 Petitioner's performance marks were well above those required for a fully honorable characterization of service; that although there was one nonjudicial punishment and one civil conviction in Petitioner's record; the primary basis for Petitioner's discharge was his sexuality; and the passage of time since Petitioner's discharge. Based on these factors, the Board determined that 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 Service members 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.

³ Only one narrative reason for separation and separation code can appear on a DD Form 214. The separation authority specified that Petitioner's DD Form 214 should include the code related to discharge for homosexuality rather than for civil conviction, but he was processed for administrative separation upon both bases.

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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 service ending on 31 December 1985 was characterized as "Honorable"; that his narrative reason for separation was "Secretary Plenary Authority"; that his separation authority was "MILPERSMAN 3630900"; that his separation code was "JFF"; and that his reentry code was "RE-1."

b. That Petitioner be issued an Honorable Discharge Certificate.

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

d. 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).

2/11/2026

