



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

Docket No. 1828-26
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

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
(4) NAVMC 10132, Unit Punishment Book, 1 July 2009
(5) Petitioner's statement, *undated*
(6) [REDACTED] CO Memo 1900 Legal, subj: Notification of separation proceedings, 29 September 2009
(7) Petitioner's Memo 1900 Legal, subj: Acknowledgment of my rights to be exercised or waived during separation proceedings, 1 October 2009
(8) [REDACTED] CO Memo 1900 Legal, subj: Administrative separation proceedings in the case of [Petitioner], 1 October 2009
(9) Second Endorsement on Enclosure (6), CO Memo 1910 ADSEP/nmo, subj: Administrative separation proceedings in the case of [REDACTED] 16 December 2009
(10) Board for Correction of Naval Records, SJN Docket No: 01774-14, subj: Review of Naval Record of [REDACTED], 1 May 2014
(11) Board for Correction of Naval Records, YTC Docket No: 6691-17, subj: Review of Naval Record of former Private [REDACTED] 7 December 2017

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

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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.

2. A three-member panel of the Board, meeting in executive session, conducted an individualized review of the Subject's naval record on 19 February 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 enlisted in the U.S. Marine Corps and began a period of active duty on 12 August 2008. See enclosure (3).

b. On 1 July 2009, Petitioner received nonjudicial punishment in violation of Article 86, Uniform Code of Military Justice (UCMJ)¹. His punishment consisted of forfeiture of \$699.00 pay per month for one month and reduction to paygrade E-1.² See enclosure (4).

c. Petitioner provided a written statement admitting to engaging in homosexual conduct. See enclosure (5).

d. By memorandum dated 29 September 2009, Petitioner was formally notified that he was being considered for administrative separation from the Marine Corps by reason of convenience of the government due to homosexual conduct. See enclosure (6).

e. On 1 October 2009, Petitioner acknowledged the notification referenced in paragraph 3d above and waived his procedural rights to consult with counsel and to an administrative discharge board hearing. See enclosure (7).

f. By memorandum dated 1 October 2009, Petitioner's commanding officer recommended Petitioner be discharged from the Marine Corps by reason of homosexual conduct with a General (Under Honorable Conditions) characterization of service. See enclosure (8).

g. Ultimately, the separation authority directed that the Petitioner be discharged from the U.S. Marine Corps with a General (Under Honorable Conditions) (GEN) characterization of service by reason of homosexual conduct. See enclosure (9).

h. On 30 April 2014, this Board granted partial relief by changing Petitioner's narrative reason for separation, separation program designator (SPD) code, RE-4 reentry code, and

¹ Petitioner was in an unauthorized absence for a total period of 29 days.

² The forfeiture of pay and reduction in pay grade were suspended.

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separation authority to "Secretarial Authority," but declined to upgrade his characterization of service based on his NJP for UA, brief period of service, and the absence of conduct marks in the record. See enclosure (10).

i. On 11 September 2017, this Board granted Petitioner's request to correct his record to reflect a name change. See enclosure (11).

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, one nonjudicial punishment for a period of unauthorized absence—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).

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 although there was one nonjudicial punishment in Petitioner's record, he was solely discharged due to his sexuality; 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. Based on these factors, the Board determined that equitable relief is warranted in the interests of justice.

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 22 December 2009 was characterized as "Honorable."

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).

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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).

3/6/2026

