



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

TAL  
Docket No: 6916-12  
18 October 2012

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED]

Ref: (a) 10 U.S.C. 1552  
(b) SECNAVINST 1910.4B  
(c) 10 U.S.C. 654 (Repeal)

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his general discharge, which he received on 25 April 1963, be upgraded to an honorable discharge. By implication, he further requested that his narrative reason for separation (unfitness) be changed.

2. The Board, consisting of Mr. Hicks, Mr. Tew, and Mr. Marquez, reviewed Petitioner's allegations of error and injustice on 11 October 2012 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

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 interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy and began a period of active duty on 26 April 1962 at the age of 17. He received nonjudicial punishment (NJP) on one occasion for failure to go to his appointed place of duty and willfully disobeying a lawful order from a superior petty officer.

d. On 29 January 1963, while being interviewed by the Office of Naval Intelligence (ONI), he admitted to engaging in a homosexual act with another sailor in the back seat of a car while returning to his unit at Corry Field, Florida.

e. On 29 March 1963, he was notified of pending administrative discharge processing with a general discharge due to unfitness. He waived all of his procedural rights, including his right to an administrative discharge board (ADB). On 25 April 1963, he received the general discharge for unfitness.

f. The available records indicate that Petitioner's conduct average was 3.0 at the time of his discharge. At that time, an average of 3.0 in conduct was normally required for an honorable characterization of service.

g. Reference (b) sets forth the Department of the Navy's policies, standards, and procedures for administratively separating enlisted service members due to homosexuality. Reference (c) sets forth the Department of the Navy's 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 also provides service discharge review boards with the authority to grant requests to change the narrative reason for discharge to "Secretarial Authority" 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.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of reference (c), the Board concludes that Petitioner's request warrants favorable action in the form of relief.

The Board concludes that based upon his overall record of service, and the Navy's policy as established in reference (c), that relief in the form of his narrative reason for separation be changed to "Secretarial Authority". Additionally, that given the presence of no aggravating factors, other than one NJP for minor offenses, and his exemplary conduct mark average of 3.0, the Board concludes that an honorable discharge is warranted.



RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the narrative reason for separation was "Secretarial Authority". Additionally, that he was issued an honorable discharge on 25 April 1963, vice the general discharge actually issued on that date.


b. That, upon request, the Department of Veterans Affairs be informed that Petitioner applied to this Board on 27 June 2012.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed expunged from Petitioner's record and that no such entries or material be added to the record in the future.


d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) it is certified that a 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.

ROBERT D. ZSALMAN  
Recorder

  
BRIAN J. GEORGE  
Acting Recorder

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 Regulation, 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.

  
ROBERT D. ZSALMAN  
Acting Executive director