



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

BJG
Docket No: 3836-13
6 March 2014

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 dtd 20 Mar 13
(2) 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 narrative reason for separation, (HOMOSEXUALITY - ENGAGED IN, ATTEMPTED TO ENGAGE IN, OR SOLICITED ANOTHER TO ENGAGE IN HOMOSEXUAL ACTS (sic) OR ACTS) issued on 17 October 1981, be changed.

2. The Board, consisting of Messrs. Ivins, Lippolis and Zsalman, reviewed Petitioner's allegations of error and injustice on 5 March 2014 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 3 September 1981. He received nonjudicial punishment on four occasions for wrongful possession of marijuana, dereliction in the performance of duties, failure to obey a lawful order, unauthorized absence, and missing the movement of his ship. He then admitted he was a homosexual. His commanding officer forwarded his case recommending a general characterization of service due to homosexuality. The separation authority directed a general characterization of service discharge due to homosexuality. He was so discharged on 17 October 1983.

c. Character of service is based in part on trait marks assigned on a periodic basis. The available records indicate that Petitioner's overall trait mark average was 2.35 at the time of his discharge. At that time, an average of 3.0 in overall trait marks was normally required for an honorable characterization of service.

d. 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 separation 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". In view of the above, the Board directs the following corrective action.

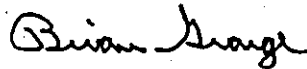
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the narrative reason for separation was "Secretarial Authority" vice "HOMOSEXUALITY - ENGAGED IN, ATTEMPTED TO ENGAGE IN, OR SOLICITED ANOTHER TO ENGAGE IN HOMOSEXUAL ACTS (sic) OR ACTS" which was issued on 17 October 1983.

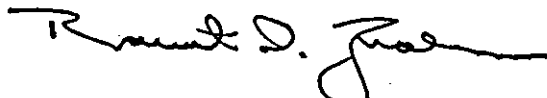
b. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 3 April 2013.

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