

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS****RECORD OF PROCEEDINGS****IN THE MATTER OF:**

Work-Product

**DOCKET NUMBER:** BC-2021-00525**COUNSEL:** NONE**HEARING REQUESTED:** NO**APPLICANT'S REQUEST**

His separation code, narrative reason for separation, and reenlistment code be changed based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).

**APPLICANT'S CONTENTIONS**

He did not deserve to be treated the way he was based on his sexual orientation. He had to surrender his weapon immediately and work in the snack shop selling snacks to his peers. It was a very degrading experience from which he suffers to this date.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman first class (E-3).

On 31 Oct 88, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reason for the action were Homosexuality.

On 18 Nov 88, the Staff Judge Advocate found the discharge action legally sufficient.

On 5 Dec 88, the discharge authority directed the applicant be discharged for Homosexuality, with a General (Under Honorable Conditions) service characterization. Probation and rehabilitation were not considered.

On 6 Dec 88, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Homosexuality Acts" and he was credited with 1 year, 10 months, and 23 days of total active service.

For more information, see the excerpt of the applicant's record at Exhibit B

**APPLICABLE AUTHORITY/GUIDANCE**

On 20 Sep 11, with the repeal of the law commonly known as "Don't Ask, Don't Tell" (DADT), 10 U.S.C. § 654, the Department of Defense (DoD) issued supplemental policy guidance on correcting military records of former service members who had been discharged under that law or

a precursor. The guidance applied to the following types of requests: changing the narrative reason for a discharge; re-characterizing service as honorable; changing a reentry code to one allowing immediate eligibility to reenter service. The guidance directed that such requests should normally be granted when both of the following conditions are true: (1) the original discharge was based solely on DADT or a similar policy in place prior to enactment of DADT; and (2) there were no aggravating factors in the record, such as misconduct. For meritorious cases, the guidance further directed the use of “Secretarial Authority” as the new narrative reason for separation, with Separation Program Designator (SPD) code “JFF” and reentry code “1J.” Finally, the guidance noted that while each request must be evaluated individually, an honorable or under honorable conditions (general) discharge should normally be considered to indicate the absence of aggravating factors.

The complete DoD policy is at Exhibit C.

### **APPLICANT’S REVIEW OF APPLICABLE AUTHORITY/GUIDANCE**

The Board sent a copy of the DoD policy to the applicant on 29 Aug 22 for comment (Exhibit D) but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an injustice. The Board concurs with the rationale and recommendation of AFPC/JA, and recommends relief based on the repeal of 10 U.S.C. § 654. The absence of aggravating factors in the applicant’s record meets the criteria of the DoD policy on records correction following the repeal of DADT. Therefore, the Board recommends correcting the applicant’s record as indicated below.

### **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the DD Form 214, *Certificate of Release from Active Duty*, issued on 6 Dec 88, be amended to reflect he was discharged with service characterized as honorable, a Separation Code of JFF, a Narrative Reason for Separation of Secretarial Authority, and a Reentry code of 1J.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-00525 in Executive Session on 22 Nov 22:

**Work-Product**, Panel Chair  
**Work-Product**, Panel Member  
**Work-Product**, Panel Member

All members voted to correct the record. The panel considered the following:

**CUI//SP-MIL/SP-PRVCY**

The panel considered the following:

Exhibit A: Application, DD Form 149, no/atchs, dated 10 Sep 20.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: DoD Policy on Correcting Military Records after Repeal of DADT, 20 Sep 11.

Exhibit D: Notification of DoD Policy, SAF/MRBC to applicant, dated 29 Aug 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

*Work-Product*

Board Operations Manager, AFBCMR

*Work-Product*