

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02886

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 28, *Narrative Reason for Separation*, be changed from "Statement of Homosexuality" [sic] to "Completed First Full Term of Service."

APPLICANT'S CONTENTIONS

With the repeal of Don't Ask, Don't Tell (DADT) policy, he feels his Narrative Reason for Separation that is currently listed on his DD Form 214 is no longer valid. Specifically, because it shares personal information with potential employers that could be used against him in a discriminatory way. Due to the military eradicating the DADT policy, he does not feel he should be required to submit any burden of proof, additional documents, or evidence for this request.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force senior airman (E-4).

On 19 Nov 03, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.36. The specific reason for the action was:

- On 27 Oct 03, the applicant disclosed to his commander, via memorandum, that he was homosexual.

On 4 Dec 03, the Staff Judge Advocate found the discharge action legally sufficient.

On 11 Dec 03, the discharge authority directed the applicant be discharged for homosexual conduct, with an honorable service characterization. Probation and rehabilitation were not authorized.

On 17 Dec 03, the applicant received an honorable discharge with Narrative Reason for Separation of Homosexual Admission, Separation Code, HRB (Homosexual Conduct - Statement), Reentry Code, 2C (Involuntarily separated with an honorable discharge), and he was credited with 4 years, 3 months, and 29 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 12 Apr 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. While the Board finds no error in the original discharge process, the Board 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. However, for the remainder of the applicant’s request, in accordance with DoD policy, the Board finds no basis to recommend granting that portion of the applicant’s request. Therefore, the Board recommends correcting the applicant’s records 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 in conjunction with his 17 December 2003 discharge, be amended to read “JFF” in Block 26, *Separation Code*, “1J” in Block 27, *Reentry Code*, and “Secretarial Authority” in Block 28, *Narrative Reason for Separation*.

However, regarding the remainder of the applicant’s request, the Board recommends informing the applicant requests for correction regarding repeal of DADT will be adjudicated in accordance with current DoD policy and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2021-02886 in Executive Session on 22 Jun 22:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, dated 15 Aug 21.

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 12 Apr 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.

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Board Operations Manager, AFBCMR