



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

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-02914

*Work-Product*

**COUNSEL:** *Work-Product*

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

Her general (under honorable conditions) discharge be upgraded to honorable, based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).

**APPLICANT'S CONTENTIONS**

In a 14-page legal brief, the applicant through her counsel contends her discharge was purely based on a homosexual act, with no aggravating factors, which is the exact type of injustice the Stanley Memorandum sought to rectify after the repeal of Don't Ask, Don't Tell (DADT).

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force sergeant (E-4).

On 15 Mar 83, the applicant's commander recommended she be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reason for the action was the applicant engaged in homosexual acts with another Airman and admitted to being homosexual as evidenced by sworn statements to the Air Force Office of Special Investigations.

On 28 Jun 83, according to documentation submitted by the applicant, the Staff Judge Advocate indicated there are no aggravating factors to warrant an under other than honorable conditions discharge and found the discharge action legally sufficient. The Staff Judge Advocate recommended the applicant receive a General Discharge Certificate without probation and rehabilitation.

In Jul 83, according to documentation submitted by the applicant, the discharge authority directed the applicant be discharged for homosexuality, with a general (under honorable conditions) service characterization. Probation and rehabilitation was considered, but not offered.

On 14 Jul 83, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received a general (under honorable conditions) discharge. Her separation code and corresponding narrative reason for separation is GRA, *Homosexual-Acts*, and her reenlistment

**AFBCMR Docket Number BC-2021-02914  
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code is 2B, *Separated with a general or under-other-than-honorable-conditions discharge*. She was credited with 4 years, 5 months, and 16 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 17 Aug 22 for comment (Exhibit D) but has received no response.

#### **FINDINGS AND CONCLUSION**

1. The application is timely.
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. 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, issued on 14 Jul 83, be amended to reflect she was discharged with service characterized as honorable, a Separation Code and corresponding Narrative Reason for Separation of JFF, *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-2021-02914 in Executive Session on 19 Jan 23:

- [Redacted]**, Panel Chair
- [Redacted]**, Panel Member
- [Redacted]**, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 12 Sep 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 17 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.

3/14/2023

**X** **[Redacted]**

Board Operations Manager, AFBCMR

Signed by: **[Redacted]**