

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03171

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The narrative reason for separation on his DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).

APPLICANT'S CONTENTIONS

He sometimes has to show his DD Form 214 for employment opportunities and various benefits. He does not like having this marker on his record for people to see. He does not understand how this information is applicable and allowed to remain on his service record since the policy has been rescinded.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force staff sergeant (E-5).

On 4 Sep 09, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, due to homosexual conduct.

On 29 Sep 09, the discharge authority directed the applicant be discharged for homosexual conduct, with an honorable service characterization.

On 2 Oct 09, according to DD Form 214, the applicant received an honorable discharge. His separation code and corresponding narrative reason for separation is HRA, *Homosexual Conduct*, and his reentry code is 2C, *Involuntarily separated with an honorable discharge; or entry level separation without characterization of service*. He was credited with two years, eight months, and six 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.

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. Accordingly, the Board recommends the applicant’s narrative reason for separation and separation code be changed.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show DD Form 214, *Certificate of Release from Active Duty*, issued on 2 Oct 09, be amended to reflect he was discharged with a reentry code of 1J and a separation code and corresponding narrative reason for separation of JFF, *Secretarial Authority*.

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-2021-03171 in Executive Session on 19 May 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, w/atch, dated 9 Sep 21.

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

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.

X

Board Operations Manager, AFBCMR