

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

Work-Product

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03693

Work-Product

COUNSEL: NONE

Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her 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

Her discharge was unjust because the sole reason for it was that she had admitted to homosexual feelings and there were no aggravating factors. Further, her record reflects high marks for her service. Therefore; she meets the requirements for a record change based on the repeal of 10 U.S.C. § 654.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 5 Feb 01, the applicant's commander recommended she be discharged from the Air Force, under the provisions of AFD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*. The specific reason for the action was she admitted to being bisexual.

On 15 Feb 01, the Staff Judge Advocate found the discharge action legally sufficient and recommended an honorable discharge be approved.

On 21 Feb 01, the discharge authority directed the applicant be discharged with an honorable service characterization.

On 29 Mar 01, the applicant received an honorable discharge. Her reentry code is 2K¹ and her separation code and corresponding narrative reason for separation is HRB, *Homosexual Admission*. She was credited with 6 years, 10 months, and 6 days of total active service.

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

¹ Has been formally notified by the commander/civilian director of initiation of involuntary separation action.

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 13 Apr 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, *Certificate of Release from Active Duty*, issued on 29 Mar 01, be amended to reflect she 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-2021-03693 in Executive Session on 19 Jan 23:

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

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

- Exhibit A: Application, DD Form 149, no atch, dated 11 Nov 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 13 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.

2/15/2023

Work-Product

Board Operations Manager, AFBCMR

Signed by: *Work-Product*