



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03805

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

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

She served with dedication and honor, and now that it is no longer illegal to be gay in the military, she respectfully requests her discharge be upgraded.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 9 Feb 79, the applicant entered the Regular Air Force.

On 10 Aug 79, the applicant's commander recommended the applicant be discharged from the Air Force for Homosexuality, under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*. The specific reason for the action was the applicant admitted to engaging in homosexual activities prior to entering the Air Force and while being assigned to the squadron.

On 15 Aug 79, the applicant submitted her conditional waiver of the rights associated with an administrative discharge board hearing, contingent on her receipt of a general discharge certificate if the recommendation of her discharge is approved.

On 29 Aug 79, the Staff Judge Advocate found the discharge action legally sufficient, recommending the discharge authority accept her conditional waiver and in light of her overall military record, direct a general discharge.

On 4 Sep 79, the discharge authority directed the applicant be discharged for general misconduct because of her sexual perversion, with a general (under honorable conditions) service characterization. Probation and rehabilitation as outlined in AFM 39-12, Chapter 4, was not warranted in this case.

Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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On 5 Sep 79, the applicant received a general (under honorable conditions) discharge. The applicant was offered but declined a narrative reason for separation and she was credited with 6 months, and 27 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 2 May 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.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

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 5 September 1979, be amended as follows:

- a. Separation Authority: AFR 39-10

- b. Characterization: Honorable
- c. Separation Code: JFF
- d. Narrative Reason for Separation: Secretarial Authority
- e. Reenlistment Code: 1J

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-03805 in Executive Session on 16 Feb 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atch, dated 19 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 2 May 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

4/12/2023

<i>Work-Product</i>	
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Board Operations Manager, AFBCMR
Signed by: *Work-Product*