



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2022-00317

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His 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

After confiding to a good friend that he was a homosexual, he was confronted by his commander to answer to the allegation that he was a homosexual. He chose not to lie and responded by stating his tendency was toward being homosexual, which resulted in him receiving a general (under honorable conditions) discharge. While this was before the DADT program, this change to an honorable discharge would help him feel good about himself and his life.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force captain (O-3).

On 14 Jul 87, according to a memorandum for record from the applicant's commander; the applicant, his commander, and another officer met. During this meeting the applicant was questioned on allegations he admitted he was a homosexual. He responded by stating his tendency was toward being homosexual. He was advised to consult with the Area Defense Counselor and asked to provide a written response to the allegation.

On 4 Sep 87, the Staff Judge Advocate found the discharge action legally sufficient.

On 17 Sep 87, the applicant's commander recommended he be discharged from the Air Force, under the provisions of AFR 36-2, *Officer Personnel, Administrative Discharge Procedures*, chapter 3, paragraph 3-7h. The specific reason for the action was: He stated he was a homosexual.

On 7 Dec 87, the applicant applied for discharge under AFR 36-12, *Officer Personnel, Administrative Separation of Commissioned Officers and Warrant Officers*, table 2-7, rule 2. He applied for discharge in lieu of further action (Board of Inquiry) under AFR 36-2, chapter 3, paragraph 3-7h.

**AFBCMR Docket Number BC-2022-00317
CUI//SP-MIL/SP-PRVCY**

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Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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On 9 Feb 88, Special Order Work-Product, directed the applicant be discharged with a general (under honorable conditions) discharge by direction of the President, by order of the Secretary of the Air Force.

On 18 Feb 88, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Homosexual Admission" and he was credited with 9 years, 4 months, and 15 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 4 May 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. 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 18 Feb 88, be amended to reflect he was discharged with service characterized as honorable, a Separation Code of JFF, and a Narrative Reason for Separation of 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-2022-00317 in Executive Session on 19 Jan 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, dated 3 Jan 22.
- 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 4 May 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

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Board Operations Manager, AFBCMR

Signed by: *Work-Product*