

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-2022-00329

Work-Product

COUNSEL: Work-Product**HEARING REQUESTED:** NO**APPLICANT'S REQUEST**

His 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

The requested changes are mandated following 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 airman first class (E-3).

On 18 Mar 86, the applicant's commander recommended he be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reason for the action was a Report of Investigation revealed he was involved in homosexual activities.

On 26 Mar 86, the Staff Judge Advocate found the discharge action legally sufficient and recommended the applicant be separated with an honorable characterization.

On 27 Mar 86, the discharge authority directed the applicant be discharged under the provisions of AFR 39-10, paragraph 5-35, with an honorable service characterization,

On 27 Mar 86, the applicant received an honorable discharge and was credited with 1 year, 7 months, and 25 days of total active service. His reentry code is 2C¹ and his separation code and corresponding narrative reason for separation is HRB, *Admitted Homosexual or Bisexual*.

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

¹ Involuntarily separated with an honorable discharge; or entry level separation without characterization of service

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 Jun 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 27 Mar 86, 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-2022-00329 in Executive Session on 2 Feb 23:

Work-Product, Chair, AFBCMR
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, w/atchs, dated 25 Nov 21.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.

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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 Jun 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.

2/16/2023



Board Operations Manager, AFBCMR

Signed by:  *Work-Product*