



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-2022-01339

Work-Product

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

He was discharged due to his association with service members who were considered homosexual and was never given a chance to explain. He would like this correction made so he can be laid to rest in a Veterans Cemetery upon his death. He served his country honorably and was looking forward to serving for 20 years.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 30 Aug 68, the applicant's commander notified him he was recommending he be discharged from the Air Force, 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*, section H for homosexual acts.

On 21 Jan 69, the Staff Judge Advocate found the discharge action legally sufficient.

On 22 Jan 69, the discharge authority directed the applicant be discharged with a general service characterization. Probation and rehabilitation was considered, but not offered.

On 30 Jan 69, an administrative board hearing recommended the applicant be discharged with a general service characterization for homosexual acts.

On 3 Feb 69, according to DD Form 214, the applicant received an honorable discharge. His narrative reason for separation is SDN [Separation Program Number] 253, which denotes "Homosexual Board Action." He was credited with 5 years, 7 months, and 1 day of total active service.

On 30 May 72, the applicant submitted a request to the Air Force Discharge Review Board for an upgrade to his discharge and a change to his reentry code to allow him to enlist in the Air Force Reserve.

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On 10 Aug 72, the Air Force Discharge Review Board concluded the discharge was equitable and proper and should not be changed.

On 15 Aug 72, DD Form 215, *Correction to the DD Form 214, Armed Forces of the United States Report of Transfer or Discharge*, was issued, correcting the applicant's service characterization from honorable to "Under Honorable Conditions."

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 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 19 Oct 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 against correcting the applicant's record.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show his DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, issued on 3 Feb 69, be amended to reflect he was discharged under the provisions of AFR 39-10, with service characterized as honorable, a Separation Code of JFF, a Narrative Reason for Separation of Secretarial Authority, and a Reentry code of 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-2022-01339 in Executive Session on 4 May 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, dated 6 Apr 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 19 Oct 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.

8/7/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: *Work-Product*