

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02165

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: Work-P...

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be amended as follows:

- a. His separation code and narrative reason for separation be changed from HRB, *Homosexual Admission*, to Post Traumatic Stress Disorder (PTSD).
- b. His reentry code be changed to a code that allows him to be eligible to participate in US military and civilian employment.

APPLICANT'S CONTENTIONS

He was experiencing major depression and was under suicide watch during boot camp and that information was never recorded in his separation documents. He is currently disabled with bipolar and major depressive disorder, which were evident during boot camp, but not included in his records. He is requesting these changes to his record so he may be able to participate in US military or civilian employment.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 14 May 98, according to DD Form 214, the applicant entered active duty.

On 19 May 98, according to a mental health evaluation, the applicant was referred to the Behavioral Analysis Service for his inability to handle the stress of Basic Military Training and his strong desire for a discharge. He was found to have no mental health condition that would warrant discharge from the military at that time and was returned to duty.

On 20 May 98, the applicant made a statement admitting to being bisexual and requested to be discharged from the Air Force based on homosexual conduct.

On 22 May 98, the applicant's commander recommended the applicant be discharged from the Air Force under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, for homosexual conduct.

On 26 May 98, the discharge authority approved the discharge action.

On 29 May 98, according to DD Form 214, the applicant received an entry level separation with uncharacterized service. His separation code and corresponding narrative reason for separation is HRB, *Homosexual Admission*, and his reentry code is 2C, *Involuntary separation with honorable discharge or entry level separation*. He was credited with 16 days of active duty service.

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

APPLICABLE AUTHORITY/GUIDANCE

DoDI 1336.01, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*. The Department of Defense (DoD) authorizes six characterizations of service for military service members to receive on discharge: (1) Honorable; (2) Under Honorable Conditions (General); (3) Under Other than Honorable Conditions; (4) Bad Conduct; (5) Dishonorable; and (6) Uncharacterized.

DoDI 1332.14, *Enlisted Administrative Separations*. A separation will be described as an entry-level separation if separation processing is initiated while an enlisted service member is in entry level status (180 days continuous active duty) except when: (1) Characterization under other than honorable is authorized under the reason for separation and is warranted by the circumstances or (2) The Secretary concerned on a case by case basis determined the characterization of service as honorable is warranted. The characterization is authorized due to reason of selected changes in service obligation, convenience of the government, disability, secretarial plenary authority, or an approved reason established by the Military Department.

Entry level separations, which are accompanied by an uncharacterized discharge, are given to individuals who separate prior to completing 180 days of military service or when discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Rather, an uncharacterized discharge is the absence of a characterization of service, as the individual being discharged does not have sufficient time in service in order to fairly characterize the individual's service.

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." In addition, 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. Finally, the issuance of a discharge under DADT or the taking of an action pursuant to DoD regulations related to a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Thus, remedies such as correcting a record to reflect continued service with no discharge, restoration to a previous grade or position, credit for time lost, or an increase from no separation pay to half or full separation pay or from half separation to full separation pay, would not normally be appropriate.

The complete DoD policy is at Exhibit C.

On 3 Sep 14, the Secretary of Defense issued a memorandum providing guidance to the Military Department Boards for Correction of Military/Naval Records as they carefully consider each petition regarding discharge upgrade requests by veterans claiming PTSD. In addition, time limits to reconsider decisions will be liberally waived for applications covered by this guidance.

On 25 Aug 17, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued clarifying guidance to Discharge Review Boards and Boards for Correction of Military/Naval Records considering requests by veterans for modification of their discharges due in whole or in part to mental health conditions [PTSD, Traumatic Brain Injury (TBI), sexual assault, or sexual harassment]. Liberal consideration will be given to veterans petitioning for discharge relief when the application for relief is based in whole or in part on the aforementioned conditions.

Under Consideration of Mitigating Factors, it is noted that PTSD is not a likely cause of premeditated misconduct. Correction Boards will exercise caution in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with the aforementioned mental health conditions and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

Boards are directed to consider the following main questions when assessing requests due to mental health conditions including PTSD, TBI, sexual assault, or sexual harassment:

- a. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
- b. Did that condition exist/experience occur during military service?
- c. Does that condition, or experience actually excuse or mitigate the discharge?
- d. Does that condition, or experience outweigh the discharge?

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness issued supplemental guidance, known as the Wilkie Memo, to military corrections boards in determining whether relief is warranted based on equity, injustice, or clemency. These standards authorize the board to grant relief in order to ensure fundamental fairness. Clemency refers to relief specifically granted from a criminal sentence and is a part of the broad authority Boards have to ensure fundamental fairness. This guidance applies to more than clemency from sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. Each case will be assessed on its own merits. The relative weight of each principle and whether the principle supports relief in a particular case, are within the sound discretion of each Board. In determining whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to paragraphs 6 and 7 of the Wilkie Memo.

On 20 Feb 24, the Board staff provided the applicant a copy of the Under Secretary of Defense guidance (Exhibit G).

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed an extensive review of all available records and finds insufficient evidence the applicant was suffering from major depression or that he was on

suicide watch during his service. A mental health evaluation completed at the time (19 May 98), found he was free of significant mental disturbance and free from significant suicidal/homicidal tendencies. He was diagnosed with adjustment disorder but was determined fit for duty.

There is also no indication the applicant suffered from any of the mental health conditions he is currently diagnosed with 22 years after his military service. The applicant contends his current mental health diagnoses were evident during Basic Military Training. There is insufficient evidence to support this claim, even after a comprehensive psychological evaluation was completed at the time of his service. There is likewise no evidence the applicant has PTSD. He was not diagnosed with PTSD prior to service, during service, or since his discharge from the military.

A review of the available records finds there is not sufficient evidence to suggest the applicant had a mental health condition that would mitigate and excuse his homosexual disclosure. Liberal consideration is applied to the applicant's petition due to the contention of a mental health condition. The following are responses to the four questions from the Kurta Memorandum based on information presented in the records:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge? The applicant contends he was experiencing major depression and was under suicide watch during boot camp. The applicant authored a handwritten document that he was bisexual and requested discharge from the military.

2. Did the condition exist or experience occur during military service? There is insufficient evidence the applicant was experiencing major depression and was under suicide watch during boot camp. The applicant underwent a psychological evaluation and was diagnosed with adjustment disorder.

3. Does the condition or experience excuse or mitigate the discharge? The applicant's condition partially mitigates his discharge. This psychological advisor recommends based on current policy guidance (Don't Ask, Don't Tell Repeal Act) changing his narrative reason for separation to Secretarial Authority and the appropriate matching separation code (JFF). As the applicant was discharged from the military in under 180 days an uncharacterized discharge remains appropriate, especially given the consideration of his refusal to train and that he would do anything to get out of the military.

4. Does the condition or experience outweigh the discharge? The applicant's condition partially outweighs his discharge. This psychological advisor recommends based on current policy guidance (Don't Ask, Don't Tell Repeal Act) changing his narrative reason for separation to Secretarial Authority and the appropriate matching separation code (JFF). As the applicant was discharged from the military in under 180 days an uncharacterized discharge remains appropriate, especially given the consideration of his refusal to train and that he would do anything to get out of the military.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 3 Oct 23 for comment (Exhibit E) 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 and concurs with the rationale of the AFRBA psychological advisor, in part. In this respect, the applicant requests his separation code and narrative reason for separation be changed to PTSD, contending he experienced mental health conditions and was under suicide watch during Basic Military Training despite the fact this information was not recorded in his records. Evidence shows a mental health evaluation completed during the applicant's time in service found he was free of significant mental disturbance and free from significant suicidal and homicidal tendencies. While he was diagnosed with adjustment disorder, he was determined to be fit for duty.

Evidence further shows the applicant admitted to being bisexual and was discharged under the DADT policy in effect at the time. While the Board finds no error in the original discharge process, the Board recommends relief based on the DoD policy repealing 10 U.S.C. § 654. However, the Board finds insufficient evidence to warrant the requested changes, and finds changing the applicant's separation code and narrative reason for separation in accordance with DoD policy more appropriate. The Board notes the applicant's reentry code is directly related to his entry level separation and limited active duty service (16 days) and finds insufficient evidence warranting a change. Finally, the Board applied liberal consideration to the applicant's request based on his contention of mental health conditions and finds insufficient evidence his conditions warrant further correction than what the Board has already determined appropriate. 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 or Discharge from Active Duty*, issued in conjunction with his 29 May 98 discharge, be amended to reflect a Separation Code and corresponding Narrative Reason for Separation of JFF, *Secretarial Authority*.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2022-02165 in Executive Session on 29 Feb 24 and 20 Mar 24:

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, w/atchs, dated 27 May 22.

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- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: DoD Policy on Correcting Military Records after Repeal of DADT, dated 20 Sep 11.
- Exhibit D: Advisory opinion, AFRBA Psychological Advisor, dated 3 Oct 23.
- Exhibit E: Notification of advisory and DoD Policy, SAF/MRBC to Applicant, dated 3 Oct 23.
- Exhibit F: Under Secretary of Defense Clarifying Guidance,
- Exhibit G: Notification of clarifying guidance, SAF/MRBC to Applicant, dated 20 Feb 24.

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.

8/27/2025

X

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Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2022-02165

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