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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02235

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COUNSEL: NONE

HEARING REQUESTED: YES

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 during Don't Ask, Don't Tell (DADT) and his experience then does not define the totality of who he was or who he is today. An individual saw him in the parking lot of a club in which gay and bisexual individuals were known to frequent. The incident was reported to his supervisors who then began to question him. After he admitted to being at the club, he was informed the matter would be investigated and he could be court-martialed and discharged if the investigation found he engaged in same sex activity. He decided not to lie, but to tell the investigator the truth that he had a very private same sex relationship and was very much in the closet. He was reassigned from his paralegal duties to work in a dorm housing people awaiting court-martial. It was like being in jail as he and others were forced to do yard work and other tasks and treated like inmates. After six weeks of waiting and not knowing whether he would be discharged or sent to jail, he received notice he would receive a general (under honorable conditions) discharge for homosexual acts. This has been a source of shame and embarrassment when a potential employer asks about military service. He never acknowledges it because it does not define him. He waited so long before requesting the upgrade because he wanted to forget it and go on with life. He recently learned he could request a change and decided it was time to get closure to that part of his life from 25 years ago.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 7 Nov 95, 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 9 Nov 95, the Staff Judge Advocate found the discharge action legally sufficient.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC:

SAF.MRBC.Workflow@us.af.mil

On 17 Nov 95, the discharge authority approved the discharge action and directed the applicant receive a general (under honorable conditions) service characterization.

On 22 Nov 95, the applicant received a general (under honorable conditions) discharge with a separation code and corresponding narrative reason for separation of HRA, *Homosexual Act*, and a reentry code is 2B, *Separated with a general or under-other-than-honorable-conditions discharge*. He was credited with 1 year, 1 month, and 10 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." 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.

APPLICANT'S REVIEW OF APPLICABLE AUTHORITY/GUIDANCE

The Board sent a copy of the DoD policy to the applicant on 7 Jul 23 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 or Discharge from Active Duty*, issued on 22 Nov 95, be amended to reflect he was discharged 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-2022-02235 in Executive Session on 29 Feb 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, dated 18 Aug 22.

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: Notification of DoD Policy, SAF/MRBC to applicant, dated 7 Jul 23.

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.

4/21/2025

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Board Operations Manager, AFBCMR

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