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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01947

COUNSEL: [REDACTED]

HEARING REQUESTED: [REDACTED]

APPLICANT'S REQUEST

Her 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

She was discharged because of "Homosexual Acts." She believes her character of service should be upgraded because there was no "Don't Ask, Don't Tell" (DADT) policy in place at that time. Despite this incident, her reviews were excellent, and she was a good Airman. At the time, she was very young and exploring her sexuality. She identifies as a heterosexual woman and has never been homosexual. She wishes the DADT policy had been in place then, as the discharge has significantly hampered her life. She recently learned about the possibility of requesting an upgrade and feels that the stress and embarrassment caused by her discharge should be corrected.

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 12 June 1984, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Regulation (AFR) 39-10, *Administrative Separation of Airmen*, paragraphs 5-35a and 5-49c. The specific reasons for the action were: homosexuality and drug abuse. On the same date, the applicant offered a conditional waiver.

On 19 June 1984, the applicant acknowledged changes made to a letter dated 12 June 1984 and did not waive her rights to consult with legal counsel concerning the changes.

On 25 June 1984, the approval authority accepted the applicant's conditional waiver and recommended the applicant be discharged from the Air Force under the provision of AFR 39-10, paragraph 5-35a, homosexuality, with a general (under honorable conditions) service characterization. The Staff Judge Advocate recommended approval of the discharge actions without probation and rehabilitation.

On 29 June 1984, the applicant received a general (under honorable conditions) discharge. Her reentry code is 2B, and her narrative reason for separation is "Homosexuality Acts." She was credited with 1 year, 6 months, and 23 days of total active service.

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[REDACTED]

[REDACTED]



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

POST-SERVICE INFORMATION

On 19 April 2024, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI), which the applicant provided on 4 June 2024. According to the FBI report, the applicant has not had any arrest data. In support of her request, the applicant provides a personal statement in which she reiterates she was a good Airman. She also provides a letter of recommendation for employment written by a co-worker.

The applicant’s complete response, with attachments, is at Exhibit E.

APPLICABLE AUTHORITY/GUIDANCE

On 20 September 2011, 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.

On 4 March 2024, the Board staff provided the applicant a copy of the DoD policy (Exhibit C).

On 25 July 2018, 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

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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 19 April 2024, the Board staff provided the applicant a copy of the supplemental guidance (Exhibit D).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

Honorable. The quality of the member's service generally has met DAF standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate.

General (Under Honorable Conditions). If a member's service has been honest and faithful, this characterization is warranted when negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record.

Under Other than Honorable Conditions (UOTHC). This is used when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of members. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include, but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior – subordinate relationships.
- Acts or omissions that endanger the health and welfare of other members of the DAF.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual abuse of a child, sexual harassment, and attempts to commit these offenses.

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.


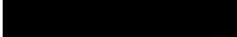
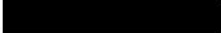
RECOMMENDATION

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 29 June 1984, be amended to reflect she 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

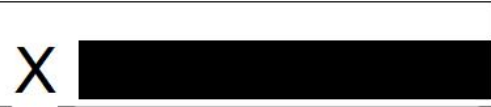
The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-01947 in Executive Session on 13 August 2024:

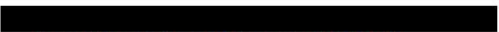
- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 23 May 2023.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (DoD Policy on Correcting Military Records after Repeal of DADT, dated 4 March 2024.
- Exhibit D: Letter, SAF/MRBC, w/atchs, (Post-Service Request and Supplemental Guidance), dated 19 April 2024.
- Exhibit E: Applicant’s Response, w/atchs, dated 4 June 2024.

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.




 Board Operations Manager, AFBCMR