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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00914

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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

Due to the repeal of Don't Ask, Don't Tell (DADT), his military record should be amended to correct the injustice of being discharged for his sexual orientation.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 20 Aug 85, the applicant's commander notified the applicant he was being recommended to be discharged from the Air Force, under the provisions of AFR 39-10, *Separation Upon Expiration of Term of Service, for Convenience of Government, Minority, Dependency and Hardship*, paragraph 5-35a for soliciting and engaging in homosexual acts.

On 20 Aug 85, the applicant offered a conditional waiver of his rights for an administrative discharge board hearing contingent on receipt of no less than an honorable discharge.

On 28 Aug 85, the Staff Judge Advocate found the discharge action legal sufficient and recommended the unconditional waiver be rejected.

On 20 Sep 85, the approval authority rejected the applicant's conditional waiver.

On 24 Sep 85, the applicant submitted an unconditional waiver and waived his right to a hearing before an administrative discharge board.

On an unknown date, the Acting Staff Judge Advocate found the discharge action, to include the applicant's unconditional waiver, legally sufficient.

On 22 Oct 85, the discharge authority accepted the applicant's unconditional waiver and directed the applicant be discharged with a general service characterization.

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On 1 Nov 85, the applicant received a general (under honorable conditions) discharge with a separation code and corresponding narrative reason for separation of HRA, *Homosexuality Acts*, 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 1 day 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 30 May 24 for comment (Exhibit C) 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 or Discharge from Active Duty*, issued on 1 Nov 85, 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-2024-00914 in Executive Session on 19 Nov 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 25 Feb 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Notification of DoD Policy on Correcting Military Records after Repeal of DADT, w/atch, dated 30 May 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.

9/3/2025

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Signed by: USAF