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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-02114

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**COUNSEL:** Work-Product

**HEARING REQUESTED:** Work-P...

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**APPLICANT'S REQUEST**

His narrative reason for separation on his DD Form 214, *Certificate of Release or Discharge from Active Duty*, be updated based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).

**APPLICANT'S CONTENTIONS**

Deletion of the narrative reason for separation on his DD Form 214, would relieve undue stress and invasion of his privacy.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force senior airman (E-4).

On 13 January 1986, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-35a. The specific reason for the action were: Homosexual acts with another male military member.

According to the Legal Review dated 28 January 1986, 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. The Acting Staff Judge Advocate recommended the approval authority refuse the conditional waiver or action by an administrative discharge board.

On 29 January 1986, the approval authority rejected the applicant's conditional waiver and informed the applicant that unless an unconditional waiver was received by 7 February 1986, he would proceed to convene a Discharge Review Board to consider the applicant's case.

On 5 March 1986, the Discharge Review Board recommended the applicant be discharged due to homosexuality with a general service characterization. Their findings included the following:

- a. The 29-year-old Respondent has two years and eight months active military service.

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b. The Respondent has engaged in a homosexual act or acts, as specified in AFR 39-10, chapter 5, section G, paragraph 5-35a, and as evidenced by the following -- and they took extracts from Government Exhibit 5, Government Exhibit 6, Government Exhibit 7, Government Exhibit 9, Respondent's Exhibit F, and witness testimony made on 5 March 1986.

c. The Respondent is therefore considered subject to discharge because of homosexuality under chapter 5 of AFR 39-10.

d. They did not find that all of the following factors were present, specifically the Respondent's continued presence in the Air Force is consistent with the Air Force's interest in proper discipline, good order, and morale. They found that would violate that precept.

e. They did find that during his current term of service the Respondent committed a homosexual act in another location subject to military control under aggravating circumstances, and that it was in military quarters to their understanding under military control.

On 12 March 1986, the applicant's commander wrote a memorandum to the approval authority about his concern for two squadron members who recently attended discharge boards due to an incident in November 1985. Despite being involved in the same incident, one was recommended for an honorable discharge and the other for a general discharge. The commander believed this discrepancy, particularly involving differences in blood alcohol tests, was a serious error that could harm morale and discipline at the small base. The individual with the lower discharge was a black senior airman, while the one with the higher discharge was a white staff sergeant, leading to perceptions of discrimination. Additionally, the squadron first sergeant testified against the individual with the lower discharge but was not asked to testify about the other. Allegations of racial bias against the first sergeant further complicated the situation. The commander recommended upgrading the lower discharge to ensure fair treatment and prevent negative impacts on morale and discipline at the base.

On 20 March 1986, the Staff Judge Advocate found the discharge board proceedings legally sufficient and recommended the approval authority follow the Board's recommendation and order the applicant be discharged with a general service characterization.

In an undated memorandum, the discharge authority directed the applicant be discharged under the provisions of AFR 39-10, chapter 5, section G, paragraph 5-35a, with a general service characterization.

On 6 May 1986, the applicant received a general (under honorable conditions) discharge. His reenry code is 2B, *Separated with a general or under-other-than-honorable-conditions discharge*, and his narrative reason for separation is "Homosexuality Acts." He was credited with 2 years, and 11 months of total active service.

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

## POST-SERVICE INFORMATION

On 24 February 2025, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI) for consideration under clemency/fundamental fairness; however, he has not replied.

## 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 31 July 2024, 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 whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to the supplemental guidance, paragraphs 6 and 7.

On 24 February 2025, Board staff provided the applicant a copy of the supplemental guidance (Exhibit F).

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

**Honorable.** The quality of the airman’s service generally has met Department of the Air Force 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 an airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the member's military record.

## **AIR FORCE EVALUATION**

AF/JAJI recommends granting the applicant's request to change the narrative reason for separation. The applicant served on active duty from 7 June 1983 to 6 May 1986, attaining the rank of senior airman. Although his term of enlistment was for four years, he was involuntarily discharged early based on homosexuality with a general service characterization. His discharge and service characterization stem from an allegation he performed oral sex on another Airman. Following the investigation on 13 January 1986, the applicant's squadron commander initiated administrative discharge proceedings based on homosexuality and recommended an honorable service characterization. The applicant offered a conditional waiver of a board hearing contingent upon receipt of no less than an honorable service characterization. The separation authority rejected the applicant's conditional waiver, and his case proceeded to an administrative discharge board. On 5 March 1986, a board of officers convened to hear the applicant's case. At the conclusion of the Board hearing, the Board of officers found the applicant engaged in a homosexual act and recommended discharge with a general service characterization. At an unknown date, SSgt A.M. also faced a discharge board for homosexuality. He too was found to have engaged in a homosexual act and recommended for discharge, but with an honorable service characterization. The applicant's squadron commander submitted a memorandum to the separation authority, advocating for an honorable service characterization for the applicant. He raised concerns the disparate outcome in the two discharge boards was resultant from racial discrimination given the applicant is African American and SSgt A.M. is Caucasian. He pointed out the applicant had a vastly superior military record to SSgt A.M., including two performance reports with firewall 9/9 ratings, placing second for the 1985 Airmen of the Year award, promotion to senior airman below the zone, and outstanding duty performance and military bearing. The separation authority discharged the applicant for homosexuality with a general service characterization.

The complete advisory opinion is at Exhibit D.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 24 Feb 25 for comment (Exhibit E) but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was not timely filed but the untimeliness is waived because it is in the interest of justice to do so. Therefore, the Board declines to assert the three-year limitation period established by 10 U.S.C. Section 1552(b).
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. The Board concurs with the rationale and recommendation of AF/JAJI, and 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.

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Further, the Board recommends the applicant's characterization be upgraded under fundamental fairness. 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 from Active Duty*, issued on 6 May 1986, 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-2024-02114 in Executive Session on 10 April 2025:

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 11 June 2024.
- 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, AF/JAJI, w/atchs, dated 24 February 2025.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 24 February 2025
- Exhibit F: Letter, SAF/MRBC (Wilkie Memo, Clarifying Guidance and Clemency Bulletin), 24 February 2025.

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.

6/2/2025

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Board Operations Manager, AFBCMR  
Signed by: USAF

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