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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02987

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COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His under other than honorable conditions (UOTHC) discharge be upgraded to honorable and his narrative reason for separation be changed based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).

### APPLICANT'S CONTENTIONS

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force Reserve second lieutenant (O-1).

On 6 Sep 67, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Regulation (AFR) 35-66, *Discharge for Homosexual Acts or Tendencies*, dated 23 Jul 56. The specific reason for the action was based on information classifying the applicant as a Class II homosexual.

On 21 Sep 67, the applicant voluntarily tendered his resignation for the good of the service in lieu of further action under AFR 35-66 (Class II), *Discharge for Homosexual Acts or Tendencies*, dated 23 Jul 56.

On 10 Oct 67, the discharge authority recommended acceptance of the resignation and the applicant be discharged with an UOTHC service characterization.

On 9 Nov 67, the Secretary of the Air Force accepted the resignation submitted by the applicant and directed he be discharged with an UOTHC service characterization.

On 21 Nov 67, the applicant received an UOTHC discharge. He was credited with 1 year, 6 months, and 6 days of total active service.

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

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## APPLICABLE AUTHORITY/GUIDANCE

AFR 35-66, *Discharge for Homosexual Acts or Tendencies*, dated 23 Jul 56. Homosexuals are classified within several categories and are classified as follows:

**Class I:** Those cases where a member, while serving in the active military service, has willfully engaged in one or more homosexual acts accompanied by assault or coercion as characterized by an act in or to which the other person involved did not willingly cooperate or consent, or where the consent was obtained through force, fraud, or actual intimidation or where the homosexual act was committed with a minor, regardless of whether the minor cooperated. Trial by general court-martial is usually appropriate. In no case will persons in Class I be administratively discharged until the entire case has been submitted to the secretary of the Air Force who will determine whether such action is in the best interest of the service.

**Class II:** Those cases where a member, while serving in the active military service, has willfully engaged in one or more homosexual acts, or has proposed or attempted to perform an act of homosexuality which do not fall into the class I category. *It is emphasized that no distinction is made in the administrative handling of cases of alleged participation in homosexual acts based upon whether the role of the person in any particular act was active or passive.* Officers will be informed they may tender a resignation for the good of the service in accordance with (IAW) paragraph 7a (3), AFR 36-12, 22 Mar 54. If resignation is tendered, it will be prepared and forwarded IAW AFR 36-12 to the officer exercising general court-martial jurisdiction.

**Class III:** Those cases where a member, while serving in the active military service, exhibits, professes, or admits to homosexual tendencies, or habitually associates with individuals known to him to be homosexuals but where there are no proven specific homosexual acts or offenses. Evidence that a member has engaged in, proposed, or attempted to perform a homosexual act while not a member of the military service, will be considered in determining whether he has homosexual tendencies or habitually associates with persons known to him to be homosexuals. Officers will be informed that they may tender a resignation under paragraph 6a (3), AFR 36-12, in lieu of further action under this regulation. If a resignation is tendered, it will be prepared and forwarded IAW AFR 36-12 to the officer exercising general court-martial jurisdiction.

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 16 Sep 24 for comment (Exhibit D) but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was timely filed.
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, *Armed Forces of the United States Report of Transfer or Discharge*, issued on 21 Nov 67, be amended to reflect he was discharged with service characterized as honorable, a Separation Code of JFF, and a Narrative Reason for Separation of Secretarial Authority.

**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-2024-02987 in Executive Session on 11 Jul 25:

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 8 Aug 24.
- 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 16 Sep 24.

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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.

9/21/2025

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Board Operations Manager, AFBCMR  
Signed by: USAF

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