

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240012191

APPLICANT REQUESTS: upgrade of his under honorable conditions (general) discharge to honorable.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states he was told during his separation process that his discharge would be automatically upgraded.
3. The applicant enlisted in the Regular Army on 11 August 1987.
4. The applicant's records contain a DA Form 2823 (Sworn Statement), dated 23 July 1990, showing he admitted to his first sergeant that he was homosexual.
5. On 8 August 1990, the applicant's immediate commander notified him that he was initiating action to separate him under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 15, for homosexuality. The specific reason for the commander's action was the applicant's admission of homosexuality. The commander also informed the applicant he was recommending an honorable characterization of service. The commander further discussed the applicant's rights.
6. On the same date, the applicant consulted with legal counsel and acknowledged receipt of the commander's notification. He was advised of the basis for the contemplated separation action for homosexuality, the type of discharge he could receive and its effect on further enlistment or reenlistment, the possible effects of this discharge, and of the procedures/rights that were available to him.

7. On 13 August 1990, the separation authority approved the applicant's discharge under the provisions of Army Regulation 635-200, chapter 15, and directed he receive a general under honorable conditions character of service.

8. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 29 August 1990 in the rank and grade of specialist/E-4. The DD Form 214 further shows in:

- block 24 (Character of Service): under honorable conditions (general)
- block 25 (Separation Authority): Army Regulation 635-200, paragraph 15-3b
- block 26 (Separation Code): JRB
- block 27 (Reentry Code): 3
- block 28 (Narrative Reason for Separation): admission of homosexuality/bisexuality

9. The applicant's record is devoid of any adverse counseling statements or disciplinary actions.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military record, the Board finds that the applicant was discharged on 29 August 1990 under honorable conditions (general) in accordance with the provisions of Chapter 15, Army Regulation 635-200, solely on the basis of admission of homosexuality. The Board recognizes that the legal and policy framework regarding military policies concerning sexual orientation

2. In light of the repeal of "Don't Ask, Don't Tell" (DADT) and subsequent directives, it is now Department of the Army policy to review and, when warranted, correct records for individuals discharged solely for reasons relating to sexual orientation. This includes the characterization of service, narrative reason for separation, separation program designator (SPD) code, and reenlistment eligibility (RE) code. The applicant was serving honorably at the time of separation, and the discharge action stemmed exclusively from a policy that is no longer in effect and is now considered inconsistent with the current standards of military equity and justice.

3. In accordance with applicable guidance and based on the principle of equity, the Board determines it is appropriate to grant full relief. The applicant's discharge shall be corrected to reflect an honorable characterization of service, with the narrative reason for separation, SPD code, and RE code updated to align with current Department of Defense policies.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by issuing the applicant a new DD Form 214 for the period ending 29 August 1990, showing in:

- item 24 (Characterization of Service): Honorable
- item 25 (Separation Authority): Army Regulation 635-200, paragraph 5-3
- item 26 (Separation Code): JFF
- item 27 (Reentry Code): 1
- item 28 (Narrative Reason for Separation): Secretarial Authority

<b>X</b>	
CHAIRPERSON	

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. Chapter 15 (Separation for Homosexuality), in effect at the time, governed the separation of Soldiers for homosexual conduct. The regulation states that separation was required when, among other circumstances, the Soldier admitted that he or she was homosexual or bisexual.
3. Under Secretary of Defense (Personnel and Readiness) memorandum, dated 20 September 2011, Subject: Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code, provides policy guidance for Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval

Records (BCM/NRs) to follow when taking action on applications from former service members discharged under Don't Ask Don't Tell (DADT) or prior policies.

4. The memorandum states that, effective 20 September 2011 -

a. Service DRBs should normally grant requests in these cases to change the:

- narrative reason for discharge, the change should be to "Secretarial Authority" (Separation Program Designator Code JFF)
- characterization of the discharge to honorable
- the reentry code to an immediately eligible to-reenter category (RE Code 1)

b. For the above upgrades to be warranted, the memorandum states both of the following conditions must have been met:

- the original discharge was based solely on DADT or a similar policy in place prior to enactment of DADT
- there were no aggravating factors in the record, such as misconduct

c. The memorandum also recognized that although BCM/NRs have a significantly broader scope of review and are authorized to provide much more comprehensive remedies than are available from the DRBs, it is Department of Defense (DoD) policy that broad, retroactive corrections of records from applicants discharged under DADT [or prior policies] are not warranted. Although DADT is repealed effective 20 September 2011, it was the law and reflected the view of Congress during the period it was the law. Similarly, DoD regulations implementing various aspects of DADT were valid regulations during that same or prior periods. Thus, the issuance of a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise properly taken discharge action.

//NOTHING FOLLOWS//