


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2023-038**

  
FS3 (former)

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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the applicant's completed application on August 1, 2023, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 22, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant, who was honorably discharged from the Coast Guard on November 14, 2002 for homosexual acts, asked the Board to correct his DD Form 214<sup>1</sup> by changing his reenlistment code from RE-4 to RE-1<sup>2</sup> so he can reenlist in the Coast Guard Reserve. The applicant argued that he was separated under the "Don't Ask, Don't Tell" (DADT)<sup>3</sup>, and he wishes to update his record. The applicant asserted that his sexuality should not determine his ability to serve his country. Although he was discharged in 2002, the applicant stated that he did not become aware of a possible injustice in his record until DADT was repealed.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on June 6, 2000, and after completing basic training he attended and completed Food Specialist (FS) "A" School.<sup>4</sup> On April 12, 2002, his Commanding Officer (CO) notified the applicant that he had initiated action to separate him from the Coast Guard because of his homosexual conduct. The applicant acknowledged the

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<sup>1</sup> A DD Form 214 is prepared to document a member's release or discharge from a period of active duty. A DD Form 215 is used to correct or add information to a DD Form 214.

<sup>2</sup> Each member discharged from the Coast Guard is assigned one of four reenlistment codes. In this case, the former member received a RE-4 (not eligible for reenlistment) and requests a RE-1 (eligible for reenlistment). Article 2.B.7 of the Military Separations Manual, COMDTINST M1000.4B.

<sup>3</sup> 10 U.S.C. § 654, "Policy concerning homosexuality in the Armed Forces."

<sup>4</sup> Coast Guard "A" School is where members receive specialized instruction in their chosen rating.

notification and requested the opportunity to consult with military counsel regarding his decision to request an administrative separation board.

On June 7, 2002, the applicant sent a message to his CO notifying him that he (the applicant) had spoken with counsel and chose to waive his rights to an administrative separation board, on the condition that he receive a general or more favorable characterization of service.

On August 8, 2002, the applicant's CO accepted the conditional waiver and indicated that he would recommend that the applicant receive a general discharge as opposed to an other than honorable discharge.

The applicant was discharged on November 14, 2002, and his Form DD 214 shows that his character of service was honorable; separation authority was Article 12.E.6 of COMDTINST M1000.6; reenlistment code was RE-4 (ineligible for reenlistment); separation program designator (SPD) code HRA<sup>5</sup>; and the narrative reason for separation was homosexual acts.

### **VIEWS OF THE COAST GUARD**

On December 8, 2023, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC). The JAG and PSC recommended that the Board grant relief. Although it recommended granting relief, PSC argued that the application is untimely because the applicant was discharged in 2002 but did not submit his application until 2023. However, PSC stated that the applicant should be reviewed in the interest of justice because DADT was not repealed until 2010 and the applicant did not know seeking reenlistment in the Coast Guard Reserve was an option until recently.

PSC and the JAG recommended that the applicant's DD Form 214 be corrected as follows:

- (1) Block 23: Type of Separation - Discharged
- (2) Block 24: Character of Service - Honorable<sup>6</sup>
- (3) Block 25: Separation Authority – CIM 1000.6 ART 12.B.12
- (4) Block 26: Separation Code – JFF
- (5) Block 27: Reentry code – RE-1
- (6) Block 28: Narrative Reason for Separation – Secretarial Authority

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On February 14, 2024, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The BCMR did not receive a response.

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<sup>5</sup> HRA means an involuntary discharge directed in lieu of further processing or convening of a board when a member who has engaged in or attempted to engage in or solicited another to engage in a homosexual act. SPD Handbook.

<sup>6</sup> The applicant's DD Form 214 already indicates that he received an honorable discharge.

### APPLICABLE LAW AND REGULATIONS

On September 20, 2011, the Under Secretary of Defense (Personnel and Readiness) issued a memorandum, subject: Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code, announcing the repeal of the law commonly known as “Don’t Ask, Don’t Tell.” The memorandum states, *inter alia*, that effective immediately, sexual orientation may not be a factor in accession, promotion, separation, or other personnel decision-making.

The memorandum also states that upon repeal of DADT, some former service members discharged under DADT or prior policies may request a correction of their military records from either their Discharge Review Board (DRB) or their Board for Correction of Military/Naval Records (BCM/NR). The memorandum notes that effective September 20, 2011, DRBs and BCMRs should normally grant requests to change entries on a former member’s DD Form 214, including the narrative reason for discharge, the separation program designator (SPD) Code, character of discharge, and/or the reenlistment code, when both of the following conditions are met:

- (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.

The memorandum states that when correcting the information on a former member’s DD Form 214, the following information should be used, assuming the above conditions have been met:

Narrative reason for discharge – change to Secretarial Authority  
SPD Code – change to JFF  
Character of discharge – change to Honorable  
Reentry code – change to RE-1

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. Under 10 U.S.C. § 1552(b) an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice in his record. Although the applicant was discharged in 2002, he stated that he did not know until recently there was an option to reenlist following the September 20, 2011 repeal of DADT. Therefore, the Board finds that his application is timely.
3. The applicant was discharged from the Coast Guard in 2002 in accordance with then-extant policy after admitting to engaging in homosexual conduct. On September 20, 2011, the Under Secretary of Defense (Personnel and Readiness) announced the repeal of DADT, and

stated that service members would no longer be subject to administrative separation on the basis of legal homosexual acts, a statement by a member that he or she is a homosexual or bisexual (or words to that effect), or marriage or attempted marriage to a person known to be of the same biological sex.<sup>7</sup>

4. The JAG recommended granting relief, arguing that the applicant meets the current requirements for a RE-1 reenlistment code because his separation in 2002 was based solely on DADT or similar policy in place prior to DADT, and there are no aggravating factors in the record, such as misconduct. The Board agrees and finds that the applicant is entitled to the relief recommended by the JAG.

5. The Board finds that the applicant has proven by a preponderance of the evidence the existence of an injustice warranting relief. The Board should order the Coast Guard to prepare and send to the applicant a new DD Form 214 with the following corrections:

- Block 23: Type of Separation - Discharged
- Block 25: Separation Authority – CIM 1000.6 ART 12.B.12
- Block 26: Separation Code – JFF
- Block 27: Reentry code – RE-1
- Block 28: Narrative Reason for Separation – Secretarial Authority

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>7</sup> Under Secretary of Defense (Personnel and Readiness) memorandum, dated September 20, 2011, subject: Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code, attachment “DADT Repeal Policy Guidance.”

**ORDER**

The application of former FS3 [REDACTED] [REDACTED] USCG, for correction of his military record is granted. The Coast Guard shall issue him a new DD Form 214 with the following corrections:

- Block 23. Type of Separation: Discharged.
- Block 24. Character of Service: Honorable
- Block 25. Separation Authority: CIM 1000.6 ART 12.B.12
- Block 26. Separation Code: JFF
- Block 27. Reentry Code: RE-1.
- Block 28. Narrative Reason for Separation: Secretarial Authority

The Coast Guard shall issue the applicant a new DD Form 214 reflecting these corrections, rather than issuing him a DD Form 215.

August 22, 2024

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