

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2011-05022  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His general (under other than honorable conditions) discharge be upgraded to general (under honorable conditions).

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APPLICANT CONTENDS THAT:

There is a preponderance of evidence in his favor and he requests the Board review his records for consideration.

In support of his request, the applicant provides a copy of his Military Service Records.

The applicant's complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant was separated from the Air Force on 29 May 1968 under the provisions of AFM 39-12, *Separation for Unsuitability, Unfitness, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*, (Homosexuality), with a general (under other than honorable conditions) discharge. He served on active duty for a period of 6 years, 9 months and 13 days.

On 3 Apr 2012, a request for post-service information was forwarded to the applicant for review and comment within 30 days (Exhibit C).

In an undated letter, the applicant responded and provided a personal statement, which chronicles his post service activities, and copies of numerous character references (Exhibit D).

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AIR FORCE EVALUATION:

HQ AFPC/DPSOA recommends approval of the applicant's request to change his character of service to Honorable and also recommends

changing the narrative reason for separation to "Secretarial Authority" and SPD code to "JFF."

DPSOA states on 20 Sep 2011, the Under Secretary of Defense issued guidance pertaining to correction of military records requests resulting from the repeal of Title 10, Section 654, commonly known as "Don't Ask, Don't Tell (DADT)." Although the discharge was properly processed according to the applicable regulation, the applicant's discharge record indicates discharge was based solely on DADT or a similar policy and did not involve aggravating factors.

The complete DPSOS evaluation is at Exhibit E.

HQ AFPC/DPSOA recommends the Board direct the applicant's RE code be changed to a 1 which is a favorable RE code.

DPSOA states the Under Secretary of Defense issued guidance to repeal DADT on 10 Sep 2011. The guidance stated requests to change the RE code to 1J should be granted for members separated under DADT unless there was misconduct present. However, RE codes at the time the applicant separated were only one digit; the 1J RE code equivalent from that time frame was "Reenlistment Eligible." DPSOA found no misconduct in the applicant's record and although he was only asking for his character of service to be changed, this office believes his RE code should also be changed to the more favorable RE code of 1 in light of the 20 Sep 2011 guidance.

The complete DPSOA evaluation is at Exhibit F.

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APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

On 26 Jul 2012, copies of the Air Force evaluations were forwarded to the applicant for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit G).

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an injustice. After a review of

the applicant's records, we have surmised he was discharged for homosexual conduct. Based on the presumption of regularity in the conduct of government affairs, and in the absence of evidence to the contrary, we must assume that the actions taken to effect the applicant's discharge were proper and in accordance with applicable policy and statute in effect at that time. Although the applicant requests his discharge be upgraded to general, based on the repeal of DADT, the Department of Defense issued policy guidance that Service Discharge Review Boards should normally grant requests to change the narrative reason for discharge (the change should be to "Secretarial Authority"), requests to re-characterize the discharge to honorable, and/or requests to change the reentry code to an immediately-eligible-to-reenter category 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. Although each request must be evaluated on a case-by-case basis, the award of an honorable or general (under honorable conditions) discharge should normally be considered to indicate the absence of aggravating factors. His discharge was based solely on DADT or a similar policy and did not involve aggravating factors. Therefore, we recommend his records be corrected as indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to reflect that on 29 May 1968 he was honorably discharged under the provisions of AFI 36-3208, paragraph 1.2, "Secretarial Authority" with a separation code of JFF and a reenlistment eligibility (RE) code of 1 and that he be furnished an Honorable Discharge certificate.

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The following members of the Board considered this application in Executive Session on 5 Sep 2012, under the provisions of AFI 36-2603:

, Panel Chair  
, Member  
, Member

All members voted to correct the records, as recommended. The following documentary evidence pertaining to BC-2011-05022 was considered:

- Exhibit A. DD Form 149, dated 15 Dec 2011, w/atchs.
- Exhibit B. FBI Report, dated 19 Jan 2012.
- Exhibit C. Letter, AFBCMR, dated 3 Apr 2012.
- Exhibit D. Letter, Applicant, undated, w/atchs.
- Exhibit E. Letter, AFPC/DPSOS, dated 31 May 2012.
- Exhibit F. Letter, AFPC/DPSOA, dated 11 Jun 2012.
- Exhibit G. Letter, SAF/MRBR, dated 26 Jul 2011.

Panel Chair