

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00134

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His Under Other Than Honorable Conditions (UOTHC) discharge be upgraded to General.

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APPLICANT CONTENDS THAT:

He was discharged for an act that never took place. Another Airman, who was trying to get out of the military any way he could, claimed the applicant was involved in a homosexual act. When the captain told him to either sign the discharge paperwork or go to prison, he signed the paperwork. Two dormitory representatives tried to explain this never happened, but the captain would not listen.

In support of his appeal, the applicant provides an expanded statement.

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

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STATEMENT OF FACTS:

The applicant entered the Air Force on 30 Apr 71.

On 16 July 71, the applicant's commander notified him that he was recommending him for discharge based upon his involvement in homosexual activity. The reason for this action was that he admitted to homosexual acts prior to entering service and to two homosexual acts while in the Air Force. The applicant consulted with counsel, waived his rights to a discharge hearing before a board of officers, and declined to submit statements in his own behalf.

On 19 Jul 71, the applicant's commander recommended he be discharged and furnished an undesirable discharge certificate.

On 21 Jul 71, the case was reviewed and determined to be legally sufficient.

On 23 Jul 71, the discharge authority directed the applicant be discharged, and receive an Undesirable Discharge Certificate.

On 27 Jul 71, the applicant was furnished an Under Other Than Honorable Conditions (UOTHC) discharge, and credited with two months and twenty eight days of service.

On 10 Sep 11, 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). In a memorandum, dated 20 Sep 11, the Under Secretary of Defense published 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 request a change to 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.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI) provided a copy of an Investigative Report, which is at Exhibit C.

On 14 Jun 12, a copy of the FBI Report and a request for post-service information 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 D).

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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 error or injustice. The applicant is requesting his UOTHC discharge be upgraded based on the repeal of DADT. No evidence has been presented which would lead us to believe his discharge was improper or contrary to the directive under which it was affected at the time of his separation. In light of the repeal of Don't Ask, Don't Tell (DADT) and the applicant's record of performance, it would be

appropriate to change the narrative reason for separation to "Secretarial Authority" and correct his separation program designator (SPD) and reentry (RE) codes accordingly. In accordance with Under Secretary of Defense (Personnel and Readiness) guidance memorandum, *Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code*, dated 20 September 2011, Service Discharge Review Boards should normally grant requests to change the narrative reason for a discharge (the change should be to "Secretarial Authority" and SPD code KFF), requests to recharacterize the discharge to honorable, and/or requests to change the RE code to an immediately-eligible-to-reenter category (the new RE code should be RE code 1J) 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 award of an honorable or general discharge should normally be considered to indicate the absence of aggravating factors. Based on our review of the evidence of record, the applicant's discharge meets these requirements. Therefore, we recommend the applicant's record 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 the APPLICANT, be corrected to show that on 27 Jul 71, he received an Honorable discharge with a narrative reason for separation of "Secretarial Authority" rather than "Homosexual Admission," a separation program designator (SPD) code of "KFF" rather than "HRB," and a reentry (RE) code of "1J" rather than "2C."

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The following members of the Board considered AFBCMR Docket Number BC-2012-00134 in Executive Session on 16 Aug 12, 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 AFBCMR Docket Number BC-2012-00134 was considered:

- Exhibit A. DD Form 149, dated 14 Jan 12, w/atch.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report, undated.
- Exhibit D. Letter, AFBCMR, dated 14 Jun 12.

Panel Chair