

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00160

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her general (under honorable conditions) discharge be upgraded to reflect honorable.

APPLICANT CONTENDS THAT:

The laws have changed regarding homosexuality and she would like her discharge upgraded since the law regarding the "Don't ask, Don't tell" (DADT) has been repealed.

In support of her request, the applicant provides an expanded statement and copies of her DD Form 214, *Certificate of Release or Discharge from Active Duty*, a statement by the President regarding the repeal of DADT, and a newspaper article.

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

STATEMENT OF FACTS:

On 16 Jan 80, the applicant entered active duty in the Regular Air Force.

On 11 Oct 83, the applicant was notified by her squadron commander that he was recommending her discharge from the Air Force for homosexuality. The basis for the action was an Air Force Office of Special Investigation (AFOSI) investigation that revealed the applicant had committed homosexual conduct, as well as her unsatisfactory progress on the Remedial Weight Control Program.

On 11 Oct 83, the applicant acknowledged receipt of the discharge notification and, after consulting with legal counsel, waived her right to an administrative discharge board hearing.

On 24 Oct 83, the case was found legally sufficient to support the action and, on 2 Nov 83, the discharge authority approved the discharge.

On 13 Jan 84, the applicant was furnished a general (under honorable conditions) discharge with a narrative reason for separation of "Homosexual-Acts" and was credited with 3 years, 11 months, and 28 days of total active service.

On 20 Sep 11, the law known as "Don't Ask, Don't Tell" (DADT), 10 USC 654, was repealed. The Department of Defense subsequently issued guidance indicating that Service Discharge Review Boards (DRB) should normally grant requests to change the narrative reason for a discharge, requests to re-characterize the discharge to honorable, and/or requests to change the reentry code when both of the following conditions were 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 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. In light of the repeal of the law commonly known as "Don't Ask, Don't Tell" (DADT) and given the applicant's record of performance, we believe it would be appropriate to correct her records to reflect she was honorably discharged, with a narrative reason for separation of "Secretarial Authority," and associated separation program designator (SPD) and reentry (RE) codes. 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 Sep 2011, Discharge Review Boards should normally grant requests to change the narrative reason for discharge (the change should be to "Secretarial Authority" (SPD code KFF)), requests to re-characterize 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. While it appears the applicant's failure to progress on the remedial weight control program was included as a basis for her discharge, we are not convinced this constitutes misconduct that, in and of itself, would have formed the basis for a general (under honorable conditions) discharge. Therefore, we recommend the applicant's records be corrected as indicated below.

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 13 January 1984, she was honorably discharged with a narrative reason for separation of "Secretarial Authority" rather than "Homosexual Admission," a separation program designator code of "KFF" rather than "HRB," and a reentry code of "1J" rather than "2C."

The following members of the Board considered AFBCMR Docket Number BC-2012-00160 in Executive Session on 26 Jan 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 was considered:

Exhibit A. DD Form 149, dated 18 Jan 12.
Exhibit B. Applicant's Master Personnel Records.

Panel Chair