

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00510
COUNSEL: NO
HEARING DESIRED: NOT INDICATED

APPLICANT REQUESTS THAT:

Her undesirable discharge be upgraded to honorable based on the repeal of Title 10, United States Code (USC), Section 654, more commonly known as "Don't Ask, Don't Tell."

APPLICANT CONTENDS THAT:

She was judged not for what she did or did not do in the service, but by her life style before she entered the service.

She is a gay woman, but did not make it known while she was in the Air Force. She is 84 years old and would like to go to her grave with an honorable discharge.

Now that things have changed, she would like to feel pride in herself and that she was part of the United States Air Force.

In support of her request, the applicant provides a personal statement, and copies of her NA Form 13038, *Certification of Military Service*; and NA Form 13045, *National Archives and Records Administration - Informal Information Reply*.

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

STATEMENT OF FACTS:

The applicant's master personnel records were destroyed in the 1973 fire at the National Personnel Records Center (NPRC). Therefore, only a reconstructed record is available for review.

On 29 Aug 55, the applicant enlisted in the Regular Air Force.

On 6 Jul 56, the applicant's commander initiated discharge proceedings under the provisions of AFR 35-66, *Discharge of Homosexuals*. The discharge was based on information contained in the Report of Investigation - Office of Special Investigations (OSI). The applicant executed sworn statements advising that she

considered herself to be a homosexual since she was approximately 13 years old, that she had committed numerous homosexual acts with ten or more women prior to her enlistment in the Air Force and participated in a homosexual act with another active duty airman. The applicant waived her entitlement to a board hearing and requested discharge without the benefit of board proceedings.

On 6 Jul 56, the applicant acknowledged the action her commander was taking against her, and after consulting with counsel, the applicant waived her rights to a hearing by a board of officers and requested discharge without the benefit of board proceedings. She stated she understood that if her discharge was approved, her separation from the Air Force might be under conditions other than honorable and that she could receive an undesirable discharge.

On 18 Jul 56, she was discharged under the provisions of AFR 35-66, and received a UOTHC discharge.

AIR FORCE EVALUATION:

AFPC/DPSOR recommends approval. DPSOR recommends the applicant's service characterization be corrected to reflect "Honorable," and her narrative reason for separation and separation code be changed to reflect "Secretarial Authority" and "JFF."

DPSOR states while the records seem to support the conclusion the actions taken by the Air Force complied with the law, regulations, and applicable policies; however, pursuant to the recent DoD policy guidance they are of the opinion that the applicant's request warrants a re-characterization of service and a change to the narrative description. Additionally, the investigation and discharge records viewed in conjunction with the regulations in effect at that time, indicates a lack of any aggravating factors or other basis for discharge.

DPSOR points out that while the applicant did not request a review of her separation date, it would appear the separation document that was re-issued in 1997 listed the wrong separation date. The file includes documents which seem to indicate a separation date of 18 Jul 56. If the board decides to grant the applicant's request, they also recommend the separation date be corrected.

The complete DPSOR evaluation is at Exhibit C.

AFPC/DPSOA defers their opinion to the OPR for the DD Form 214, *Certificate of Release or Discharge from Active Duty*, to determine if a reentry (RE) code should be added to the

applicant's form at the time of her discharge. If so, they recommend the board direct her RE code to be listed as "1."

DPSOA states the guidance for RE codes at the time of the applicant's discharge shows the equivalent of RE code 1J was "1;" there were no two digit RE codes at that time.

The complete DPSOA evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 11 Oct 12, copies of the Air Force evaluations were forwarded to the applicant for review and comment within 30 days. To date, a response has not been received (Exhibit E).

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. The applicant's complete official military record is not available as it appears to have been a part of the records destroyed in a fire at the National Personnel Records Center in 1973. Nevertheless, we have been able to determine some of the circumstances of the applicant's discharge from the Air Force based on limited reconstructed records. Based on a review of those records, it appears the applicant was discharged for homosexual conduct and that the actions taken to effect the discharge were proper and in accordance with applicable policy and statute in effect at the time. However, the applicant is appealing for relief based on the repeal of Title 10, U.S.C., Section 654, more commonly known as "Don't Ask, Don't Tell." Based on the repeal of "Don't Ask, Don't Tell, 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. In view the above, and finding no aggravating factors or other basis for discharge, we find it would be in the interest of justice to change the applicant's service characterization to honorable and her narrative reason for separation to "Secretarial Authority," and her RE code to "1." Accordingly, in the interest of justice, we recommend her records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that on 18 Jul 56, she was honorably discharged by reason of "Secretarial Authority," with a separation code of "JFF" and a reenlistment eligibility (RE) code of "1."

The following members of the Board considered AFBCMR Docket Number BC-2012-00510 in Executive Session on 29 Nov 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 19 Apr 12, w/atchs.
- Exhibit B. Applicant's Available Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSOR, dated 9 Aug 12.
- Exhibit D. Letter, AFPC/DPSOA, dated 14 Sep 12.
- Exhibit E. Letter, SAF/MRBR, dated 11 Oct 12.

Panel Chair