

JUL 21 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-01440

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His discharge be upgraded to honorable.

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APPLICANT CONTENDS THAT:

He chose to say he was a homosexual to get a discharge. Unfortunately he did not realize that it carried a negative discharge with it.

Applicant's complete submission is attached at Exhibit A.

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STATEMENT OF FACTS:

On 16 October 1967, the applicant enlisted in the CA ANG-ResAF in the grade of airman basic for a period of six years.

The applicant was notified by his commander on 12 June 1970 that discharge action has been initiated against him under chapter 2, section H, AFM 39-12, Homosexuality, Class II. The commander further advised the applicant that if court-martial action is neither applicable nor deemed appropriate in his case, he (the commander) is recommending that he be administratively discharged and issued an undesirable discharge. Applicant was advised that military counsel had been obtained to assist him, or he had the right to employ civilian counsel if he so desired, and the right to submit statements in his own behalf. The applicant did consult counsel, did submit statements in his own behalf, but waived his right to a hearing before an administrative discharge board. Records indicate that on 1 August 1970, the applicant, in the grade of sergeant, received an undesirable discharge.

Pursuant to the Board's request, the Federal Bureau of Investigation, Washington, D.C., indicated on the basis of the data furnished they were unable to locate an arrest record.

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AIR FORCE EVALUATION:

The Chief, Utilization, ANG/MPPU, reviewed the application and states that they reviewed the applicant's request for upgrade of discharge and recommend the applicant's discharge characterization not be upgraded.

A complete copy of the evaluation is attached at Exhibit D.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 19 Jan 98 for review and response within 30 days. As of this date, no response has been received by this office.

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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. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing the evidence of record, we are not persuaded that applicant's discharge should be upgraded. By his own statement, the applicant admits to saying that he was homosexual in order to be discharged from military service. This admission, had it been known to the commander on 12 June 1970, would likely have resulted in a similar type discharge. In view of the above and in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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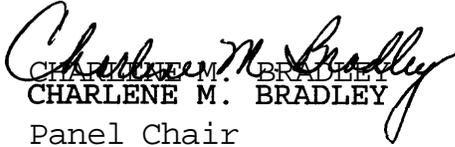
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The following members of the Board considered this application in Executive Session on **14 May 1998**, under the provisions of AFI **36-2603**:

Ms. Charlene M. Bradley, Panel Chair  
Mr. Terry A. Yonkers, Member  
Dr. Gerald B. Kauvar, Member  
Ms. Phyllis L. Spence, Examiner (without vote)

The following documentary evidence was considered:

Exhibit **A**. DD Form **149**, dated **27 May 97**.  
Exhibit **B**. Applicant's Master Personnel Records.  
Exhibit **C**. FBI Report.  
Exhibit **D**. Letter, ANG/MPPU, dated **10 Dec 97**, w/atchs.  
Exhibit **E**. Letter, AFBCMR, dated **18 Jan 98**.

  
CHARLENE M. BRADLEY  
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Panel Chair