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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2015-01794-2

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COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider her request to change her narrative reason for separation of "Fraudulent Entry" to "Erroneous Entry." Also, change her reenlistment (RE) code to an RE "1" or equivalent code to allow reenlistment.

RESUME OF THE CASE

The applicant is a former Air Force first classman (E-3).

On 13 Jan 16, the Board considered and denied her request to change her narrative reason for separation of "Fraudulent Entry" to "Erroneous Entry" finding the applicant had not been the victim of an error or injustice.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit F.

On 4 Jan 22, the applicant requested reconsideration of her request. She again contends her separation, and corresponding RE code, resulted from an unduly harsh application of Air Force regulations surrounding enlistment standards. Because her reason for separation and RE code were discretionary decisions by her Command, those remarks on her DD Form 214, *Certificate of Release or Discharge from Active Duty*, now represent an abuse of discretion. In support of her reconsideration request, the applicant submitted the following new evidence: (1) counsel's brief; (2) separation/discharge documents; (3) enlistment documentation; (4) medical documentation and (5) letters of recommendation.

The applicant's complete submission is at Exhibit G.

APPLICABLE AUTHORITY/GUIDANCE

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued supplemental guidance (Wilke Memo) to military corrections boards in determining whether relief is warranted based on equity, injustice, or clemency. These standards authorize the board to grant relief in order to ensure fundamental fairness. Clemency refers to relief specifically granted from a criminal sentence and is a part of the broad authority Boards have to ensure fundamental fairness. This guidance applies to more than clemency from sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. Each

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case will be assessed on its own merits. The relative weight of each principle and whether the principle supports relief in a particular case, are within the sound discretion of each Board. In determining whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to the supplemental guidance, paragraphs 6 and 7.

On 12 Oct 22, the Board staff provided counsel a copy of the clemency guidance (Exhibit H).

AFI 36-3208, *Administrative Separation of Airmen*, describes the types of service characterization:

Honorable. The quality of the airman's service generally has met Air Force standards of acceptable conduct and performance of duty or when a member's service is otherwise so meritorious that any other characterization would be inappropriate.

Under Honorable Conditions (General). If an airman's service has been honest and faithful, this characterization is warranted when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record.

Under Other than Honorable Conditions. When basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include, but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior - subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the Air Force.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual assault of a child, sexual abuse of a child, forcible sodomy and attempts to commit these offenses.

POST-SERVICE INFORMATION

On 12 Oct 22, the Board sent counsel a request for post-service information and advised counsel the Federal Bureau of Investigation (FBI) Identity History Summary Check was required, which would indicate whether the applicant had an arrest record. In the alternative, the applicant could provide proof of employment in which background checks are part of the hiring process (Exhibit H). Counsel did not respond.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. Based on the available evidence of record, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant has provided no evidence that would lead the Board to believe her service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. In the interest of justice, the Board considered

upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of a criminal history report, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting her current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to clemency based on fundamental fairness.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2015-01794-2 in Executive Session on 26 Oct 22 and 22 Mar 23:

Work-Product	, Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit F: Record of Proceedings, w/ Exhibits A-E, dated 13 Jan 16.
- Exhibit G: Application, DD Form 149, w/atchs, dated 4 Jan 22.
- Exhibit H: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 12 Oct 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

5/25/2023

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Board Operations Manager, AFBCMR

Signed by: USAF