



**CUI//SP-MIL/SP-PRVCY**  
**UNITED STATES AIR FORCE**  
**BOARD FOR CORRECTION OF MILITARY RECORDS**

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

*Work-Product*

**DOCKET NUMBER:** BC-2017-01992

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

1. His general (under honorable conditions) discharge be upgraded to honorable (No Board action required-non-viable).
2. His grade be changed to senior airman (E-4).
3. His narrative reason for separation, "Misconduct-Pattern Discreditable Involvement with Military or Civilian Authorities" be removed.
4. His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be corrected to reflect the following:
  - a. Fire Range Ribbon [sic]
  - b. Passport Agent/Personnel Specialist – 4 years
  - c. The Air Force Training Ribbon (No Board action required).

**APPLICANT'S CONTENTIONS**

He joined the Air Force to serve his country. When enlisted, he never used drugs. At the time of his discharge, he did not have legal representation.

**STATEMENT OF FACTS**

On 14 Dec 81, a letter from the Deputy Assistant Secretary of Passport Services indicates the applicant was designated as a passport agent.

On 23 Dec 82, AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for wrongful possession of marijuana. He received a reduction in grade to airman first class (E-3) and forfeiture of pay of \$250.00 for two months.

**AFBCMR Docket Number BC-2017-01992**  
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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

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On 15 Mar 83, the applicant separated from the Air Force in the grade of airman first class (E-3). He received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct-Pattern Discreditable Involvement with Military or Civilian Authorities" and he was credited with 4 years and 19 days of total active service. The Air Force Specialty Code (AFSC) of 73230 Personnel Specialist 4 years, is annotated on his DD Form 214.

On 4 Apr and 30 Oct 17, the applicant submitted a DD Form 149 for a correction to his records as stated above.

On 7 Jan 18, the AFBCMR staff notified the applicant his request for a discharge upgrade based on clemency and to ensure fundamental fairness was being closed as non-viable stating it is vital he provide documentation supporting his request to include documentation indicating whether or not he has an arrest record to evaluate whether or not his post-service contributions warrant an upgrade of his discharge.

On 26 Feb 22, the Board received an AFPC/DP3SP advisory opinion stating they were able to verify award of the Air Force Training Ribbon as currently annotated on the applicant's DD Forms 214. In view of the applicant's original contention and concerns expressed in his 30 Oct 17 application, the AFBCMR staff reopened his case in order for the Board to consider the applicant's requests.

For more information, see the excerpt of the applicant's record at Exhibit B and the letter and advisories at Exhibits C, D, and E.

**APPLICABLE AUTHORITY/GUIDANCE**

Per AFI 36-3202, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 series)* Table 4, states the DD Form 214 reflects the active duty grade held at separation.

Per AFI 36-3202 and the DD Form 214, Total Force Personnel Services Delivery (TFPSD) Guide, specific/additional duties of a career field are not annotated on a member's DD Form 214. According to the Air Force Specialty Code (AFSC) Directory, the 73230 career field is listed as a personnel specialist.

**AIR FORCE EVALUATION**

AFLOA/JAJM reviewed the NJP actions and finds no basis to set them aside. The applicant received two NJP actions during his time in service. While the applicant has not expressly contested the issuance or outcome of the NJP actions, AFLOA/JAJM, nonetheless, reviewed the NJP actions.

NJP 1: On 23 May 79, the applicant's commander notified him of his intent to impose NJP for violation of a lawful general regulation and dereliction of duty, in violation of Article 92, Uniform Code of Military Justice (UCMJ). According to the NJP, the applicant allowed a female into an off-limits area and fell asleep during dorm guard duty. The NJP notification informed the applicant

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of his rights, to include the right to consult with legal counsel. The applicant elected not to consult with a lawyer, waived his right to a court-martial, and accepted the NJP. He requested a non-public personal appearance before his commander, and elected not to submit a written presentation. The record does not include documentation of the punishment or any requests or actions on appeal. AFLOA/JAJM concludes that nothing in the record or the applicant's submission invalidates the NJP.

NJP 2: On 23 Dec 82, the applicant's commander notified him of his intent to impose NJP for possession of marijuana and possession of marijuana paraphernalia, in violation of Articles 92 and 134, UCMJ. The applicant claimed that the paraphernalia belonged to his brother, but admitted to smoking marijuana three weeks prior while visiting his brother in Chicago. The applicant consulted with an attorney, waived his right to a court-martial, accepted NJP, and elected to make a nonpublic oral presentation, along with a written presentation. After considering all of the matters presented, the commander found the applicant committed the offenses as alleged and imposed a punishment of reduction in rank to airman first class and forfeiture of \$250.00 pay per month for two months. The applicant appealed the punishment and submitted matters in writing. The appellate authority subsequently denied the applicant's appeal.

A commander considering a case for disposition under Article 15, UCMJ, exercises discretion in evaluating a case, both as to whether punishment is warranted and the nature and extent of the punishment. The exercise of that discretion should generally not be reversed or otherwise changed on appeal by the Board, absent good cause. Before deciding to impose NJP, the applicant's commander would have been aware that non-punitive disciplinary measures, including counseling and reprimands, were available. The commander had the best opportunity to evaluate the evidence in the case and determine what action would best maintain good order and discipline and promote positive behavior. The commander's ultimate decision to impose NJP was based on the evidence of the case, including the extenuating and mitigating information provided by the applicant, and his punishment decision was within his authority and discretion.

The complete advisory opinion is at Exhibit D.

AFPC/DP3SP recommends denying award of the Small Arms Expert Marksmanship Ribbon as no official documentation such as the AF Form 522, *Ground Weapons Training Data and USAF Firearms Qualification*, or Special Order was located in the applicant's official military personnel record or provided by the applicant.

Per Air Force Manual (AFMAN) 36-2806, *Awards and Memorialization Program*, section A14.33, the Small Arms Expert Marksmanship Ribbon is awarded to regular Air Force, Air National Guard and Air Force Reserve members, who, after 1 Jan 63, qualify as "Expert" with either the M-16 rifle (to include the M-4 and GAU-5) or an issued handgun on the Air Force qualification course, an appropriate orientation course prescribed in other Air Force Instructions, other Military Services' qualification course, or who satisfactorily complete the Combat Rifle Program.

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Notwithstanding the above, they were able to verify the applicant was awarded the Air Force Training Ribbon, which is annotated on his DD Form 214. Accordingly, no Board or administrative action is required.

The complete advisory opinion is at Exhibit E.

**APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 3 Mar 22, for comment (Exhibit F), but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was not 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. The Board concurs with the rationale and recommendation of AFLOA/JAJM and AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board finds no basis to set aside the applicant's NJP actions nor does the Board find error with the grade and reason for separation indicated on the applicant's DD Form 214. Additionally, with regards to the applicant's request to have his DD Form 214 reflect Passport Agent/Personnel Specialist and the award of the Small Arms Expert Marksmanship Ribbon, the Board found no official documentation such as the AF Form 522 or Special Order in the applicant's official military personnel record or provided by the applicant to justify granting this request nor did the Board find an error in the listing of Passport Agent on the applicant's DD Form 214 as it is considered an additional duty to his primary duty of Personnel Specialist. Furthermore, the applicant's request for a discharge upgrade based on clemency and to ensure fundamental fairness was not considered by the Board, deeming this request as non-viable. If the applicant were to provide documentation supporting his request to include evidence indicating whether or not he has an arrest record and other evidence of his post-service contributions to evaluate whether or not his post-service contributions warrant an upgrade of his discharge, the Board would reconsider his request for clemency. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

**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 (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2017-01992 in Executive Session on 11 Oct 22:

- Work-Product** Panel Chair
- Work-Product** Panel Member
- Work-Product** Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Forms 149, dated 4 Apr and 30 Oct 17.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Non-Viable Letter (FBI required w Clemency), SAF MRBC to Applicant, dated 7 Jan 18
- Exhibit D: Advisory Opinion, AFLOA/JAJM, dated 23 Jan 19.
- Exhibit E: Advisory Opinion, AFPC/DP3SP, dated 26 Feb 22.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Mar 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

**Work-Product** 2/27/2023

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Board Operations Manager, AFBCMR  
Signed by: **Work-Product**