



Work-Product

## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01002

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His general (under honorable conditions) discharge be upgraded to honorable, and his narrative reason for separation be amended to reflect "For the good of the Air Force."

### APPLICANT'S CONTENTIONS

His discharge was unjust. He never smoked marijuana and the evidence he provided supports his case. The Air Force is all he wanted to do, and he truly loved his job. There was a 1/4-inch marijuana dry leaf that was pressed in his book along with other types of flowers and plants. He had no issue taking a drug test, which he did right away. He even requested the results and provided them as evidence. The Air Force would not give him the results. They stated in a letter that they would send the results once they were completed, but they never sent them.

In support of his request for a discharge upgrade, he provides copies of his enlisted performance reports, letters of appreciation, numerous military certificates of achievement, training certificates, and other documents related to his request for upgrade.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 22 May 84, the applicant received a letter of reprimand for on or about, 19 Feb 84, being arrested by the [City] Police Department for drunk driving. On 10 May 84, the applicant was found guilty by the [State] Municipal Court of California.

On 31 Jan 85, according to AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, the applicant received nonjudicial punishment under Article 15, Uniform Code of Military Justice (UCMJ), for violation of Article 112a, UCMJ, for wrongfully possessing some amount of marijuana. The applicant was reduced to the grade of E-3, with a new date of rank of 31 Jan 85, and ordered to forfeit \$150 of his pay per month for two months.

On 8 Feb 85, the applicant's commander recommended the applicant be discharged from the Air Force for Drug Abuse, under the provisions of Air Force Regulation (AFR) 39-10, *Administrative Separation of Airmen*, paragraph 5-49c. The specific reasons for the action were:

AFBCMR Docket Number BC-2021-01002

Work-Product

Work-Product

[SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

[the applicant's] divers use of illegal substances from Sep 82 to Apr 84, and his apprehension for possession of marijuana on 28 Jan 85, which resulted in his receiving an Article 15, dated 31 Jan 85.

On 18 Feb 85, the Staff Judge Advocate found the discharge action legally sufficient.

On 1 Mar 85, the discharge authority directed the applicant be discharged with a general service characterization. Probation and rehabilitation were considered but not offered.

On 7 Mar 85, the applicant received a general (under honorable conditions) discharge with a separation code and corresponding narrative reason for separation of JKK, *Misconduct (Drug Abuse)*. He was credited with 5 years, 7 months, and 25 days of total active service.

For more information, see the excerpt of the applicant's record at Exhibit B.

## POST-SERVICE INFORMATION

On 21 Jun 21, the Board staff sent the applicant a request for post-service information and advised the applicant he should provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether or not he 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 C). The applicant replied on 8 Jul 24 and provided an FBI report, dated 24 May 24. According to the report, the applicant was arrested on:

- 19 Feb 84 for driving under the influence of alcohol or drugs causing death or injury
- 20 Jul 90 for fraudulent use of checks \$200.00 or less
- 17 Mar 01 for driving under the influence
- 7 Oct 06 for driving under the influence

The applicant's complete response is at Exhibit D.

## APPLICABLE AUTHORITY/GUIDANCE

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness issued supplemental guidance, known as the Wilkie 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 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 paragraphs 6 and 7 of the Wilkie Memo.

On 21 Jun 21, the Board staff provided the applicant a copy of the clemency guidance (Exhibit C).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

**Honorable.** The quality of the airman's service generally has met Department of the 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.

**General (Under Honorable Conditions).** 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 member's military record.

## FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all discharge upgrade requests under fundamental fairness or clemency are technically untimely. However, it would be illogical to deny a discharge upgrade application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board declines to assert the three-year limitation period established by Title 10, United States Code § 1552(b).

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. It appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. In the interest of justice, the Board considered upgrading the discharge based on clemency; however, given the evidence presented, the applicant's criminal history, and in the absence of post-service information provided by the applicant, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's record.

## 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-01002 in Executive Session on 29 May 25:

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 A: Application, DD Form 149, w/atchs, dated 8 Jul 24.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Work...

Work-Product

Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 21 Jun 21.  
Exhibit D: FBI Report, dated 24 May 24.

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.

6/20/2025

Work-Product

Board Operations Manager, AFBCMR  
Signed by: USAF

**AFBCMR Docket Number BC-2021-01002**

Work-Product

Work...