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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02636

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His general (under honorable conditions) discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

At the time of his discharge, he was informed he could apply for an upgrade of his discharge after ten years, but he had not done so until now. Also, at the time of his discharge, he felt he received no resources or assistance to aid him in what occurred from the Air Force. He thinks the Air Force was negligent in how he was treated and discharged. He believes if his congressman had not gotten involved on his behalf, his discharge would have been even worse than what did happen.

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 Feb 83, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Regulation (AFR) 39-10, *Administrative Separation of Airmen*, Paragraph 5-46, for minor disciplinary actions. The specific reasons for the action were:

- a. On 10 Feb 83, a Letter of Reprimand (LOR) was issued for receiving a traffic ticket on or about 8 Feb 83.
- b. On 12 Jul 82 a Memorandum for Record (MFR) was issued for being delinquent on his non-commissioned officer (NCO) club account.
- c. On 10 May 82, a Letter of Counseling (LOC) was issued for missing a dental appointment.
- d. On 24 Mar 82, a LOR was issued for receiving a traffic ticket on or about 20 Mar 82.
- e. On 19 Jan 82, a MFR was issued for being delinquent on his NCO club account.

AFBCMR Docket Number BC-2023-02636

Work-Product

Work-Product

- f. On 29 Sep 81 a MFR was issued for being delinquent on his NCO club account.
- g. On 21 Aug 81, he was placed on a control roster for substandard duty performance and misconduct.
- h. On 15 May 81, a LOR was issued for receiving a traffic ticket on or about 9 May 81.
- i. On 6 May 81, a LOR was issued for failure to go on 5 and 6 May 81.
- j. On 22 Dec 80, a MFR was issued for having dishonored checks.
- k. On 23 Dec 80, an AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for negligently failing to properly clear his weapon at the clearing barrel on or about 18 Dec 80. He was ordered to forfeit \$250.00 of pay for 1 month and was to perform thirty days extra duty. Forfeiture of pay in excess of \$100.00 per month was suspended until 15 Jun 81.

On 17 Mar 83, the Staff Judge Advocate found the discharge action legally sufficient.

On 18 Mar 83, the discharge authority directed the applicant be discharged for a pattern of misconduct, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered, but not offered.

On 21 Mar 83, the DD Form 214, *Certificate of Release or Discharge from Active Duty*, indicates the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct – Pattern of Minor Disciplinary Infractions" and he was credited with 2 years, 8 months, and 27 days of total active service.

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

POST-SERVICE INFORMATION

On 19 Mar 24, the Board sent the applicant a request for post-service information and advised the applicant he was required to 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 29 Apr 24 and provided an FBI report. According to the report, the applicant was arrested on 27 Nov 14 for driving under the influence (DUI), first offense.

The applicant's complete response is at Exhibit D.

APPLICABLE AUTHORITY/GUIDANCE

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 10 U.S.C. Section 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. The Board finds his discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant has provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. Nonetheless, in the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, the Board finds no basis to do so. While the applicant did supply an FBI report, the evidence he provides lacks references that demonstrate his character, post-service rehabilitation, service to the community, or any degree of remorse pertaining to his in-service conduct. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness. However, the Board does not find the evidence presented is sufficient to conclude the applicant's post-service activities overcame the misconduct for which he was discharged. This Board very carefully weighs requests to upgrade the character of a discharge and in doing so, considers whether the impact of an applicant's contributions to his or her community since leaving the service are substantial enough for the Board to conclude they overcame the misconduct that precipitated the discharge and whether an upgrade of the discharge would create a larger injustice to those who served honorably and earned the characterization of service the applicant seeks. The Board does not find the applicant's submission sufficient to grant the requested relief and therefore, recommends against correcting the applicant's record. The applicant retains the right to request reconsideration of this decision, which could be in the form of a personal statement, character statements, or testimonials from community leaders/members specifically describing how his efforts in the community have impacted others. Should the applicant provide documentation pertaining to his post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of his request 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-02636 in Executive Session on 15 Jan 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, dated 3 Aug 23.

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

Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 19 Mar 24.

Exhibit D: Applicant's Response, dated 29 Apr 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.

2/11/2025

X

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Board Operations Manager, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2023-02636

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