



[REDACTED]

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00851

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. The narrative reason for separation of "misconduct" be removed from his DD Form 214, *Certificate of Release or Discharge from Active Duty*.

APPLICANT'S CONTENTIONS

Thirty-one years ago, he swapped charge of quarters (CQ) duties with a fellow airman and took his weekend duty, and they agreed to take his when his week came up. This was agreed and planned in advance. When his weekend came up, the other airman failed to show, and he was out of town with another airman. When he returned, he was reprimanded and reduced in rank [sic] to airman basic. When he asked to plead the case and have it reviewed, he was told he had lied and simply failed to show up. He accepted the weekend CQ duty was his; however, the manner and severity with which the Air Force chose to handle this was an injustice and he consequently requested to be discharged over the event.

He understands the extra weekend duties were his responsibility and accepts the reprimand was warranted, even while he did exchange duties and did cover the other airman's responsibility on his week. He is asking the Board to consider the manner in which this was handled was extreme and represents an injustice, given the fact there was no proven history of a pattern of minor disciplinary infractions, as it is stamped on his DD Form 214. In fact, this was the only official reprimand he received while in the Air Force. He showed up to work daily, performed his duties as required of him and the only time he ever missed a day's work was when he contracted mono. This is verifiable.

Twice, he signed up with the base mobility office and requested to serve on temporary duty (TDY) in [REDACTED]. Twice, he was thanked and told they appreciate his willingness to serve in a combat zone; however, they do not need more personnel. This as well should be verifiable with the records office at [REDACTED] AFB. Had this matter been handled differently, he would have gladly continued to serve and stay in the military for many years beyond his short tour.

The applicant's complete submission is at Exhibit A.

AFBCMR Docket Number BC-2024-00851

[REDACTED]

[REDACTED]

STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 9 Mar 93, 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 infractions. The specific reasons for the action were:

- a. On 15 Apr 92, a Letter of Counseling (LOC) was issued for failing his room inspection on or about 13 Apr 92 and 14 Apr 92.
- b. On 15 Oct 92, a LOC was issued for, without authority and through neglect, failing to report his restricted area badge was either lost or misplaced and failed to report it to the proper authorities on 30 Sep 92.
- c. On 14 Dec 92, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for willfully failing to be at Edwards AFB, so he could receive the standby beeper and assume standby responsibilities on 27 Nov 92. Additionally, he failed to go without authority, at the time prescribed, to his appointed place of duty on 28 Nov 92. He received a reduction to the grade of airman, suspended until 13 Jun 93, after which time it was to be remitted, unless sooner vacated, base restriction and extra duty for seven days and forfeiture of \$213.50 pay. On 17 Dec 92, a supplementary action under Article 15, set aside forfeitures in excess of \$205.00.
- d. On 3 Dec 92, a LOC was issued for failing to go to his appointed place of duty on time on 3 Dec 92.
- e. On 8 Dec 92, a LOC was issued for failing to obey a lawful order to bring his completed volume six Career Development Course (CDC) to work on 5 Dec 92 and 7 Dec 92.
- f. On 4 Jan 93, AF Form 366, *Record of Proceedings of Vacation of Nonjudicial Punishment*, indicates the applicant's suspended punishment was vacated for failing to go at the time prescribed, to his appointed place of duty on or about 15 Dec 92. He received a reduction to the grade of airman, with a new date of rank of 14 Dec 92.
- g. On 1 Feb 93, a Letter of Reprimand (LOR) was issued for failing to inform his supervisor of his whereabouts on or about 27 Jan 93.

On 16 Mar 93, the Staff Judge Advocate found the discharge action legally sufficient.

[REDACTED]

On 17 Mar 93, the discharge authority directed the applicant be discharged for misconduct, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered, but not offered.

On 24 Mar 93, the DD Form 214 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 1 year, 8 months, and 24 days of total active service.

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

POST-SERVICE INFORMATION

On 17 Apr 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 5 Jun 24 and provided an FBI report. According to the report, the applicant was arrested on 23 Dec 01 for inflicting corporal injury to a spouse or cohabitant. Additionally, the applicant was arrested on 31 Mar 15 for failure to appear in court for not having a valid drivers license.

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.

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

[REDACTED]

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. 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. Additionally, the applicant has provided no evidence which would lead the Board to believe his narrative reason for separation was contrary to the provisions of the governing regulation at the time of his separation. The Board understands the applicant's desire to remove the narrative reason claiming no pattern of misconduct existed; however, the narrative reason annotated on his DD Form 214 represents the reason to which he was separated and is not subject to change unless an error was made in the original annotation and the Board finds the applicant's record reveals he was issued LOCs, an LOR and two NJPs indicating a pattern of misconduct. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, an FBI report showing arrests on 23 Dec 01 and 31 Mar 15, and no other post-service evidence, the Board finds no basis to do so. 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 applicant did not provide sufficient evidence to show he has made a successful post-service transition. The evidence he provides lacks references that demonstrate his character, remorse for his actions, or service to the community. Therefore, the Board recommends against correcting the applicant's records. 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.

[REDACTED]

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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-00851 in Executive Session on 11 Mar 25:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 13 Feb 24.

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

Exhibit C: Letter, SAF/MRBC, w/atchs (FBI Bulletin with Clemency/Fundamental Fairness Guidance), dated 17 Apr 24

Exhibit D: Applicant's Response, dated 5 Jun 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.

4/2/2025

X [REDACTED]

Board Operations Manager, AFBCMR
[REDACTED]

AFBCMR Docket Number BC-2024-00851

[REDACTED]