



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2018-03075-4

Work-Product

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request for the following:

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His narrative reason for separation of "Misconduct (Minor Infractions)" be changed to "Secretarial Authority."

STATEMENT OF FACTS

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

On 3 Jun 07, the applicant's commander notified him he was recommending he be discharged from the Air Force, under the provisions AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. The specific reasons for the action were:

- a. On or about 22 Mar 04, he failed to report to a scheduled appointment with his commander. He received a letter of reprimand (LOR) dated 25 Mar 04.
- b. On or about 4 Jul 05, he was derelict in the performance of his duties by viewing unauthorized material while on post. He received a LOR dated 4 Jul 05.
- c. Between 27 Nov 06 and 3 Dec 06, he stole United States currency in the value of about \$197.15, the property of the base exchange. For this incident, he received an Article 15 dated 30 Jan 07, with a punishment of reduction to the grade of E-3, suspended through 29 Jul 07; forfeiture of \$197.00 pay per month for two months and a reprimand.
- d. Between 18 Jan 07 and 4 Feb 07, while having knowledge of a lawful order issued by his commander for restriction of base exchange services, commissary and retail services

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facilities per the letter dated 4 Jan 07, the applicant failed to obey by wrongfully shopping at the base exchange at another post. For this incident, he received a vacation of the suspended nonjudicial punishment (NJP), dated 3 Apr 07. The applicant was reduced to the grade of E-3, with new date of rank (DOR) of 30 Jan 07.

- e. Between 18 Jan 07 and 4 Feb 07, while having knowledge of a lawful order issued by his commander for restriction of base exchange services, commissary and retail services facilities privileges per the letter dated 4 Jan 07, he failed to obey the same by wrongfully shopping at the base exchange at another post. Then on or about 28 Mar 07, with intent to deceive, he made a false official statement to his commander that another airman escorted him to the post exchange. For these incidents, he received an Article 15 dated 7 May 07, with punishment of reduction to the grade of airman basic (E-1) with a new DOR of 7 May 07, and a reprimand.

On 6 Jul 07, the applicant was discharged with a general (under honorable conditions) discharge, narrative reason for separation of "Misconduct" and corresponding separation code "JKN." He was credited with 3 years, 10 months and 17 days of active duty service.

In an undated letter, per his request, AFPC/DPPRY informed the applicant his DD Form 214, *Certificate of Release or Discharge from Active Duty*, was either reaccomplished or corrected with a DD Form 215, *Correction to DD Form 214*. The applicant's military human resources record (MHRR) reflects he was provided a re-issued DD Form 214 to reflect his narrative reason for separation is "Misconduct (Minor Infractions)" rather than "Misconduct."

On 4 Nov 10, the Air Force Discharge Review Board (AFDRB) denied the applicant's request for an upgrade of his discharge. The AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process.

On 20 Jun 19, the Board considered and denied his request his discharge be upgraded to honorable. The Board found 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. The Board considered upgrading the discharge based on clemency; however, given the evidence presented, the Board found no basis to do so.

On 26 Sep 19 and 22 Apr 20, the Board denied the applicant's request for reconsideration for upgrade of his discharge finding he provided no new or relevant information to warrant reconsideration.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letters and Record of Proceedings at Exhibits D, E and F.

RESUME OF THE CASE

On 28 Mar 25, the applicant, through counsel, requested reconsideration of his request for upgrade of his discharge and change of his narrative reason for separation. Counsel contends the applicant's chain of command made a material error of discretion by not providing him a meaningful opportunity to overcome his misconduct and his discharge was unduly harsh.

The applicant was a solid performer and the incidents of misconduct occurred in a relatively quick succession and were not indicative of his integrity. His chain of command made an error in discretion by not providing him the opportunity to overcome the incidents.

The Wilkie Memo expressly empowers the Board to make the corrections and notes the AFBCMR is authorized to grant relief to ensure fundamental fairness. The Wilkie Memo states, "It is consistent with military custom and practice to honor sacrifices and achievements, to punish only to the extent necessary, to rehabilitate to the great extent possible, and to favor second chances in situations which individuals have paid for their misdeeds." The punitive intent of the applicant's discharge has served any legitimate purpose.

The applicant has strived to better himself since his discharge. He has held various positions, including being a merchandiser and warehouse worker, delivery driver, an Uber and Lyft driver, an order selector/forklift operator, a yard driver and has maintained his commercial driver's license. His employment opportunities are limited because he is 90 percent disabled from his service connected injuries per the Department of Veterans Affairs (DVA).

In a personal statement, he requests a second chance and a chance at a better life and future. He has two children and his wife entered the Air Force in 2008. He is honest, warm hearted and unselfish. He has donated to numerous foundations all over the world. Ever since his mother died from lupus, he tries to give and help anyone who suffers from any disease or illness. He and his wife watched over several airmen's children and helped friends and neighbors financially and provided transportation.

In Aug 2003, he joined the Air Force to gain knowledge and better his life. Before he was discharged, he was scheduled to depart the Air Force under force shaping. A few days before leaving, he learned he was being discharged. He wants to finish college and become the successful businessperson that he always wanted to be. He lost his GI Bill when he was discharged and it is now extremely hard to continue college due to financial hardship. They manage their income to avoid excessive financial hardship. Since his wife joined the Air Force, he is a stay at home father of two. He applied for numerous jobs with the base exchange, border patrol and state and federal government agencies for security level jobs but his general discharge gets in the way of him getting a chance of fulfilling a career with any company. If he had an honorable discharge, any company would see he is a great and hard worker.

The incidents that led to his discharge include his wife buying video games from the base exchange. The games would not play on his gaming console. When he returned the games, he was issued gift cards. A few weeks later, he was told to report to the investigation office. He never knew how much his wife paid for the games and reimbursed the base exchange. Soon

thereafter, they received letters barring them from the base commissary and exchange facilities. They shopped off base spending twice as much money for groceries and were not able to use their women, infants and children (WIC) vouchers. He wrote many appeals to at least be able to purchase food but his requests were denied. His new supervisor gave him permission to visit another local exchange, no one knew if he was barred from all base exchanges. His first sergeant then called him into the office and asked about his purchases at the post exchange and informed him he would be discharged.

Once out of the Air Force, they had no place to go. They decided to go to New Mexico. He applied for unemployment benefits and after applying for many jobs, he was hired by a national soda company through a temporary agency. He worked for them from Oct 07 to Jun 08 until his wife departed for basic training.

In support of his request, the applicant provides a personal statement, character letters dated 2009, DVA Rating Decision dated 8 May 24, resume and employment history, excerpts of his personnel records and other documents.

The DVA Rating decision dated 8 May 24, reflects the applicant's combined service connected disability rating is 90 percent, effective 13 Jul 22.

The applicant's complete submission is at Exhibit G.

POST-SERVICE INFORMATION

On 22 Sep 25, the Board staff sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI). The applicant has not provided a response. However, in his prior case, the applicant provided an FBI report dated 15 Apr 19, which shows no arrests since his discharge.

APPLICABLE AUTHORITY/GUIDANCE

On 25 Jul 18, the Under Secretary of Defense 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 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.

The entire guidance can be found at Exhibit I.

DAFI 36-3211, *Military Separations*, 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.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted other available administrative remedies 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 notes the applicant's explanations for the misconduct; however, he has provided insufficient evidence to support his claims. The Board finds the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant 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. In the interest of justice, the Board considered upgrading the applicant's discharge based on fundamental fairness. The Board considered the principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness to include the applicant's post-service conduct and achievements, length of time since the misconduct, his character and reputation, service to the community, job history and degree of contrition. However, the Board finds insufficient evidence to warrant a discharge upgrade to honorable on the basis of fundamental fairness and recommends against correcting the applicant's record. Should the applicant provide additional post-service evidence, to include an updated criminal history report, character letters attesting to his rehabilitation and contributions to his community, the Board would be willing to reconsider his request. Therefore, the Board recommends against correcting the 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

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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-2018-03075-4 in Executive Session on 18 Feb 26:

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 D: Record of Proceedings, w/Exhibits, dated 5 Aug 19.

Exhibit E: Letter, SAF/MRBC, dated 26 Sep 19.

Exhibit F: Letter, SAF/MRBC, dated 22 Apr 20.

Exhibit G: Application, DD Form 149, w/atchs, dated 28 Mar 25.

Exhibit H: Documentary evidence, including relevant excerpts from official records.

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.

3/5/2026

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

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