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

**ADDENDUM TO RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2020-01338-2

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**COUNSEL:** NONE

**HEARING REQUESTED:** YES

**APPLICANT'S REQUEST**

The Board reconsider his request for his general (under honorable conditions) discharge be upgraded to honorable.

**RESUME OF THE CASE**

The applicant is a former Air Force airman first class (E-3) who was discharged on 4 May 87 for misconduct.

On 21 Jul 22, the Board considered and denied his request for a discharge upgrade finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The Board found the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion and further found the applicant provided no evidence that would have led the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. Additionally, the Board considered upgrading the applicant's discharge based on the principles included in the Wilke Memo to determine whether to grant relief based on an injustice or fundamental fairness. However, found the evidence he did submit, photographs, an FBI report with no evidence of arrests since his discharge, and character statements, lacked references that demonstrate his character, post-service rehabilitation, service to the community, or any degree of remorse pertaining to his in-service conduct. Lastly, the Board advised the applicant he could 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.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit E.

On 1 Apr 24, the applicant requested reconsideration of his request for a discharge upgrade. He contends he does have remorse for the actions that led to his discharge, failing and embarrassing his family. He had an alcohol problem, and it was an injustice for his leadership to not offer

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rehabilitation. Once he was discharged, he received help and had his records expunged. He served his community in law enforcement and is currently employed with the F----- B----- I----- company for over 30 years.

In support of his reconsideration request, the applicant submitted the following new evidence: (1) photos and a statement from his current employment; (2) training certifications and an academic report; and (3) several news articles pertaining to his law enforcement duties.

The applicant's complete submission is at Exhibit F.

#### **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 G.

#### **FINDINGS AND CONCLUSION**

1. The application was 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. Based on the available evidence of record, it appears the 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 applicant's discharge. In support of his request for an upgrade, the applicant provided photos and a statement from his current employment, training certifications, an academic report, and several news articles pertaining to his law enforcement duties. Furthermore, he shows remorse for his actions and

contends if he would have received proper treatment for his alcohol issues while in service, his behavior could have been corrected.

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. While the applicant has presented some supporting evidence indicating he has apparently made a successful post-service transition, the Board does not find the documentation sufficient to conclude they should upgrade the applicant's discharge at this time. In this respect, the applicant has not provided any character reference letters to indicate his impact to his community which would convince the Board his actions were so admirable the Board could conclude an upgrade of his discharge would not constitute an injustice to those who have earned this characterization of service. Therefore, the Board does not find the applicant's submission sufficient to grant the requested relief.

The applicant retains the right to request reconsideration of this decision, which could be in the form of a personal statement, character reference 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.

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-2020-01338-2 in Executive Session on 26 Nov 24:

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Panel Chair

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Panel Member

Panel Member

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

Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 21 Jul 22.

Exhibit F: Application, DD Form 149, w/atchs, dated 1 Apr 24.

Exhibit G: Letter (Clemency Guidance), SAF/MRBC to Applicant, dated 3 Oct 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.

12/10/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF

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