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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-02261

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COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His under other than honorable conditions (UOTHC) discharge be upgraded.

APPLICANT'S CONTENTIONS

He believes the error in the record is not that he was an undisciplined teenager with a negative attitude and did not behave honorable, but rather, he was only 17 years old when he joined and was not mature enough to behave appropriately. Additionally, this record should not remain as is for his whole life. As a 17-year-old teenager, he should not have joined the service. He believes he was trying to avoid the draft, and to show his father he was more than what was thought of him, which is the wrong reasons to enlist. He believes over the course of his life, he has certainly matured, and to not be able to upgrade his discharge would be an error. He has been successfully employed all of his life, raised seven children, and even obtained a secret clearance from the government for a job he held in the 1980s.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman basic (E-1).

On 22 Sep 69, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Manual (AFM) 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*, paragraph 2-15a for frequent involvement of a discreditable nature with civil and military authorities. The specific reasons for the action were:

- a. On 8 Nov 68, a memo of disciplinary punishment, indicates the applicant received nonjudicial punishment (NJP), Article 15 for breaking restrictions after being restricted to the limits of the base on or about 8 Nov 68. The applicant received a reduction to the grade

AFBCMR Docket Number BC-2020-02261

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of airman basic (E-1), forfeiture of \$54.00 pay per month for 2 months, and 30 days correctional custody.

b. On 18 Nov 68, he was found guilty in civil court for being drunk and using vile, indecent language on or about 8 Nov 68.

c. On 7 May 69, the convening authority published Special Court-Martial Order Number [REDACTED]. The Order stated the applicant pled not guilty and was found not guilty to one charge and one specification of absenting himself from duty (Article 86); he pled not guilty and was found guilty of one charge and one specification of possession of a stimulant drug, to wit: amphetamine (Article 92); and he pled guilty and was found guilty of one additional charge and two specifications of failure to go. The applicant was sentenced to confinement at hard labor for six months and forfeiture of \$73.00 pay per month for six months.

On 3 Oct 69, the Assistant Staff Judge Advocate found the discharge action legally sufficient.

On 27 Oct 69, the discharge authority directed the applicant be discharged for frequent involvement of a discreditable nature with civil and military authorities, with a UOTHC service characterization.

On 29 Oct 69, the applicant received a UOTHC discharge. He was credited with one year, three months, and four days of total active service.

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

POST-SERVICE INFORMATION

On 4 Sep 20, the Board sent the applicant a standard request for post-service information. This letter informed the applicant that a Federal Bureau of Investigation (FBI) background check would assist the Board in evaluating his case. Although the applicant did reply to the request for post-service information (Exhibit C), his response did not include an FBI background check or other criminal history data. The applicant provided another application requesting an upgrade based on a successful life after his youth, a personal statement, multiple character statements and a Department of Veterans Affairs (DVA) employee identification card as a registered nurse with an expiration date of 2 Sep 25.

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 4 Sep 20, the Board staff provided the applicant a copy of the clemency/fundamental fairness 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.

Under Other than Honorable Conditions. This characterization is used when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of members. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include but are not limited to:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior - subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the DAF.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual abuse of a child, sexual harassment, and attempts to commit these offenses.

FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, all discharge upgrade requests are technically untimely. However, it would be illogical to deny a discharge

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upgrade application as untimely, since the Board typically looks for over 15 years of good conduct post-service. Therefore, the Board finds it is in the interest of justice to waive 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on fundamental fairness. In particular, the applicant has shown he was successful post-service as evidenced by his employment as a registered nurse for the Department of Veterans Affairs (DVA). Furthermore, it has been over 50 years since discharge, a significant passage of time, supporting the notion he has been fully rehabilitated. Therefore, the Board recommends the applicant's records be corrected as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 29 Oct 69, he was discharged with service characterized as general (under honorable conditions), and a separation code and corresponding narrative reason for separation of JFF (Secretarial Authority).

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-2020-02261 in Executive Session on 18 Jun 25:

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Panel Chair

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Panel Member

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Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 14 Jun 20.

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 4 Sep 20.

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

6/30/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2020-02261

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