



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-02330

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He worked hard to advance his military career. His wife at the time was responsible for their finances. She did not like the military life so she intentionally wrote bad checks or did not make payments. She would constantly call his commander to complain about his duty requirements. His wife intentionally did not keep the home in order which resulted in an Article 15 for failing to maintain his quarters. Although he was having marital issues, he did not let it affect his duty performance.

In support of his request, the applicant provides a personal statement, copies of performance reports, an Article 15, three character reference letters, an FBI Report and various other documents associated with his request.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 25 Jul 91, the applicant's commander recommended he be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airman*, paragraph 5-46. The specific reasons for the action were between 13 Feb 89 and 21 Jun 91, he was counseled several times and verbally reprimanded once for issuing checks with insufficient funds in his account to cover them, for failing to pay his indebtedness to the base club on time, for failing to meet appointments, for operating a bicycle on base without a headlamp, and for failing to register a vehicle on base. He also received an Article 15 for failing to maintain his quarters in a clean and sanitary condition.

On 2 Aug 91, the staff judge advocate found the discharge action legally sufficient.

In an undated letter, the discharge authority directed the applicant be discharged for misconduct (minor disciplinary infractions), with a general (under honorable conditions) service characterization without the offer of probation and rehabilitation.

**AFBCMR Docket Number BC-2020-02330
CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB
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POC: SAF.MRBC.Workflow@us.af.mil

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On 15 Aug 91, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct-Pattern of Minor Disciplinary Infractions." He was credited with four years, one month, and seven days of total active service.

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

POST-SERVICE INFORMATION

On 22 Sep 20, 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 (Exhibit C). Based on the foregoing, his application dated 1 May 20, was closed. On 5 May 21, the applicant submitted another application and included an FBI report. According to the report, the applicant was arrested on 1 May 15 for counts of battery with serious bodily injury (Exhibit A).

APPLICABLE AUTHORITY/GUIDANCE

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued supplemental guidance 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.

On 27 Jul 22, the Board staff provided the applicant a copy of the supplemental guidance.

AFI 36-3208, *Administrative Separation of Airmen*, 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. Given the requirement for passage of time, all clemency requests are technically untimely. However, it would be illogical to deny a clemency 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. § 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. The discharge was not unduly harsh or disproportionate to the offenses committed. 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. Therefore, the Board recommends against correcting the applicant's 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

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-02330 in Executive Session on 27 Apr 22:

Work-Product [Redacted], Panel Chair
Work-Product [Redacted], Panel Member
Work-Product [Redacted], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 5 May 21.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 22 Sep 20.
- Exhibit D: FBI Report, dated 27 Nov 20.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

3/15/2023

Work-Product [Redacted]

Board Operations Manager, AFBCMR
Signed by: USAF