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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01200

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was under the stressful pressure of military life and turned to alcohol. He was discharged rather than properly diagnosed and treated. He has become a model citizen and is alcohol free. He has been married and employed for 25 years. He has four adult children and is also a minister of the Gospel.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 31 Jan 95, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Instruction (AFI) 36-3208, *Administrative Separation of Airmen*. The specific reasons for the action were:

- a. [The applicant] did, on or about 9 Nov 94, operate a motor vehicle while drunk, which resulted in his arrest by civil authorities. For this, he received a Letter of Reprimand (LOR) and Unfavorable Information File (UIF), dated 9 Nov 94
- b. [The applicant] did, on or about 28 Jan 94, disobey a lawful order by storing unauthorized firearms in his dormitory room, for which he received an LOR and UIF, dated 11 Feb 94.
- c. [The applicant] did, on or about 23 Dec 93, fail to maintain sufficient funds in his bank account for a check written to the Army and Air Force Exchange Service, for which he received an LOR, dated 6 Jan 94.
- d. [The applicant] did, on or about 6 Dec 93, fail to pay just debts to the Enlisted Club, for which he received a Record of Individual Counseling, dated 21 Dec 93.

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

e. [The applicant] did, on or about 16 Nov 93, fail to go at the time prescribed to a scheduled dental appointment due to overindulgence of alcohol the night prior. For these actions, he received an LOR, dated 2 Dec 93.

On 9 Feb 95, the Staff Judge Advocate found the discharge action legally sufficient.

On 10 Feb 95, the discharge authority directed the applicant be discharged under the provisions of AFI 36-3208, Chapter 5, Section H, paragraph 5.49, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered, but not offered.

On 17 Feb 95, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 4 years, 6 months, and 15 days of total active service.

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

POST-SERVICE INFORMATION

On 11 Jun 21, 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 12 Oct 23 and provided an FBI report. According to the report, the applicant was arrested on 10 Dec 95 for driving under the influence of alcohol and driving while his license was suspended or revoked. The applicant also provided a personal statement.

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 11 Jun 21, Board staff provided the applicant a copy of the clemency 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.

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 Title 10, United States Code § 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 accordance with paragraph 7 of the Wilkie Memo, the Board considered the relatively minor severity of the misconduct, length of time since discharge, and the lack of any civil infractions since 1995. 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 17 Feb 95, he was discharged with service characterized as honorable, 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-2021-01200 in Executive Session on 30 Oct 24:

Work-Product Panel Chair

Work-Product Panel Member

n, Panel Member

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

- Exhibit A: Application, DD Form 149, dated 21 Jan 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 11 Jun 21.
- Exhibit D: Applicant's Response, w/atchs, dated 12 Oct 23.
- Exhibit D: FBI Report, dated 10 Oct 23.

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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.

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Board Operations Manager, AFBCMR

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