



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01279

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Bad Conduct Discharge (BCD) be upgraded.

APPLICANT'S CONTENTIONS

His court martial conviction in 1987 should not be permitted to stand as a life sentence. Military service was a journey through racial injustices, consequences of his bad decisions, and ultimately a transformed restored life. For 35 years he has had to acknowledge the reality of his unlawful past. He has forgiven his 23-year-old self for past mistakes but will never truly escape the cloud that haunts him until he can show his daughters a DD Form 214, *Certificate of Release or Discharge from Active Duty*, which fully encompasses the honor of a full life, in its entirety. If the conviction itself was warranted, commanders' responses to drug offenses nowadays suggests that, perhaps, his sentence was unduly harsh. He also asks the Board to consider whether his race may have influenced the severity of his adjudged sentence.

In support of his request for clemency, the applicant provides a personal statement, his Air Force Discharge Review Board (AFDRB) package and three character reference letters.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 30 Nov 84, according to DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, the applicant enlisted in the Regular Air Force.

On 14 Apr 87, Special Court-Martial Order No. [REDACTED] was published and indicated the applicant was arraigned and found guilty of two specifications of wrongful distribution of one gram of cocaine and one specification of wrongful use of cocaine, in violation of Article 112a, Uniform Code of Military Justice. The sentence was adjudged on 4 Mar 87 and the applicant received a BCD, forfeiture of \$438 pay per month for five months and reduction to the grade of E-1.

On 14 Sep 87, according to DD Form 214, the applicant received a BCD. His separation code and corresponding narrative reason for separation is JJD, *Conviction by Court Martial (Other than Desertion)*, and his reenlistment code is 2M, *Serving a sentence or suspended sentence of court-martial; or separated while serving a sentence or suspended sentence of court-martial*. He was credited with 2 years, 6 months, and 21 days of total active service.

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[REDACTED]

[REDACTED]

[REDACTED]

On 27 Aug 97, the applicant submitted a request to the AFDRB for an upgrade to his discharge.

On 10 Dec 97, the AFDRB concluded the applicant's punitive discharge by Special Court-Martial is appropriate under the facts and circumstances of this case and there is insufficient basis, as an act of clemency, for change of discharge.

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

POST-SERVICE INFORMATION

On 14 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 21 Sep 21 and provided an FBI report. According to the report, the applicant has had no arrests since discharge.

The applicant's complete response is at Exhibit D.

APPLICABLE GUIDANCE

This Board is without authority to reverse, set aside, or otherwise expunge a court-martial conviction. Rather, in accordance with Title 10, United States Code, Section 1552(f) (10 U.S.C. § 1552(f)) actions by this Board are limited to corrections reflecting actions taken by the reviewing officials and action on the sentence of the court-martial for the purpose of clemency.

On 25 Jul 18, the Under Secretary of Defense 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 14 Jun 21, Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

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.

[REDACTED]

Under Other than Honorable Conditions. 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 airmen. 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 Air Force.
- 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 assault of a child, sexual abuse of a child, forcible sodomy and attempts to commit these offenses.

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 the victim of an injustice. The Board is without authority to reverse, set aside, or otherwise expunge a court-martial conviction. Rather, in accordance with 10 U.S.C. § 1552(f), the Board's actions are limited to corrections to the record to reflect actions taken by the reviewing officials and action on the sentence of the court-martial for the purpose of clemency. The Board considered the applicant's community service, his expression of remorse, and the absence of any criminal record. Accordingly, the Board believes the applicant has successfully transitioned to civilian life and his BCD no longer serves a useful purpose. In view of the foregoing, the Board finds sufficient relevant evidence has been presented to upgrade the applicant's discharge based on clemency and 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 that on 14 Sep 87, he was discharged with an Under Honorable Conditions (General) service characterization, a separation code and corresponding narrative reason for separation of JFF, *Secretarial Authority*, and a reenlistment eligibility code 2B, *Separated with a general or under-other-than-honorable-conditions discharge*.

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 1.5, considered Docket Number BC-2021-01279 in Executive Session on 19 Jan 23:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

[REDACTED]

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 22 Mar 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 14 Jun 21.
- Exhibit D: FBI Report, dated, 2 Sep 21.

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

5/30/2025

X [REDACTED]

[REDACTED]
Board Operations Manager, AFBCMR
Signed by: USAF