



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2021-01900

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

His punishment was too harsh and he should have been treated for alcoholism opposed to being discharged.

In support of his request for clemency, the applicant provides two character reference letters and a background check from the *Work-Product* State Police.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 6 Dec 66, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*. The specific reasons for this action was between Apr 66 and 25 Sep 66, the applicant received 11 Letters of Reprimand and an Article 15 for financial irresponsibility. The applicant also received an Article 15, dated 6 Jan 66, for wrongful appropriation of a tape recorder, of a value less than \$20. As a result, he was reduced to the grade of airman basic and ordered to forfeit \$46 of pay per month for 2 months.

On 16 Dec 66, an evaluation officer interviewed the applicant and recommended he be discharged under the provisions of AFM 39-12, Para. 2-4g, with a general discharge.

On 21 Dec 66, the discharge authority approved the discharge recommendation under the provisions of AFR 39-12, Para 2-4g, with a general (under honorable conditions) service characterization.

On 28 Dec 66, per DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received a general (under honorable conditions) discharge. The reason and authority is listed as SDN 363 which denotes "Unsuitability- Individual Evaluation Authority, AFM 39-12,

**AFBCMR Docket Number BC-2021-01900
CUI//SP-MIL/SP-PRVCY**

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Chapter 3, Sec A, Para 2-4.” He was credited with 2 years, 4 months and 29 days of total active service.

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

POST-SERVICE INFORMATION

On 17 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 did not respond; however, as noted above, the applicant provided two character reference letters and a background check from the state of Kentucky with his application (Exhibit A). According to the background check, no arrests were reported.

APPLICABLE AUTHORITY/GUIDANCE

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 17 Jun 21, the Board staff provided the applicant a copy of the supplemental 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.

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. Should the applicant provide an FBI Background Summary and additional post service information, the Board may be willing to reconsider his request.

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-2021-01900 in Executive Session on 27 Apr 22:

 *Work-Product*, Panel Chair
 *Work-Product*, Panel Member
 *Work-Product*, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 19 Apr 21.
- 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 17 Jun 21.

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.

3/14/2023

 *Work-Product*

Board Operations Manager, AFBCMR
Signed by: USAF