



[REDACTED]

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01931

COUNSEL: [REDACTED]

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. Her general (under honorable conditions) discharge be upgraded to honorable.
2. Her Record of Individual Counseling, dated 9 October 1991, which referenced Article 107 of the Uniform Code of Military Justice (UCMJ) be removed from her record.

APPLICANT'S CONTENTIONS

Her character of service was improperly weighed and is unjust due to her wrongful charge with violating Article 107 of the UCMJ, the strength of her in-service record, and post-service contributions to her community. She made significant contributions and received recognition from leadership during her service and her military accomplishments should have outweighed her misconduct. She was counseled and disciplined for falsifying documents to which she denies as the civilian fitness monitor was the person responsible for making the false annotations. She was unjustly coerced into accepting a lower discharge status because she was told she would be facing two weeks in military custody otherwise. Before the incident, she had an exemplary record, with only two minor conduct incidents, but after the incident, she was unfairly targeted by her leadership for dereliction of duty for such things as leaving a trash bag in the office, failing to set up a room, and failing to process orders. Since her discharge, she has made an impact in her community over the last 25 years frequently volunteering and contributing to the military and civilian community where she resides. She is actively involved in [REDACTED]

[REDACTED]
and the choir vice-president of her church music ministry.

In support of her request for a discharge upgrade, the applicant provides a personal statement and copies of military kudos, numerous post-service certificates of achievement and character reference letters, a copy of her college degree and transcripts, and other documents related to her request for upgrade.

The applicant's complete submission is at Exhibit A.

AFBCMR Docket Number BC-2021-01931

[REDACTED]

Controlled by: SAF/MRB
CUI Categories: [REDACTED]
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

STATEMENT OF FACTS

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

On 26 Mar 92, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-10, *Administrative Separation of Airmen*, paragraph 5-25a for unsatisfactory performance. The specific reasons for the action were:

- a. On 17 Feb 91, the applicant received a traffic violation for parking in a non-designated area.
- b. On 2 Jul 91, AF Form 174, *Record of Individual Counseling*, indicates the applicant was counseled for failing to maintain military bearing.
- c. On 9 Oct 91, AF Form 174, indicates the applicant was counseled for failing to comply with the Fitness Improvement Training (FIT) program.
- d. On 16 Oct 91, AF Form 174, indicates the applicant was counseled for dereliction of duty by failing to ensure purchase orders were signed.
- e. On 15 Nov 91, AF Form 174, indicates the applicant was counseled for dereliction of duty by failing to ensure bookkeeping was updated.
- f. On 18 Dec 91, the applicant was issued a Letter of Admonishment (LOA) for dereliction of duty by failing to properly set up a room and securing the building.
- g. On 12 Mar 92, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for dereliction of duties by willfully failing to process expenditures for meeting. She received a reduction in grade to airman (E-2), suspended until 11 Sep 92 and 21 days of extra duty.

On 6 Apr 92, the Assistant Staff Judge Advocate found the discharge action legally sufficient.

On 8 Apr 92, the discharge authority directed the applicant be discharged for failing to perform assigned duties properly, with a general service characterization. Probation and rehabilitation were considered, but not offered.

On 13 Apr 92, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Unsatisfactory Performance" and she was credited with 2 years, 2 months, and 13 days of total active service.

On 9 Sep 98, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to her discharge.

[REDACTED]

On 15 Jan 99, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process. The board noted the applicant's discharge was based on a single series of incidents of duty dereliction; however, found the continuation of the unsatisfactory performance, in spite of efforts to help the applicant change, outweighed the applicant's otherwise satisfactory service.

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

POST-SERVICE INFORMATION

On 25 Apr 22, the Board sent the applicant a request for post-service information and advised the applicant she was required to provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether or not she 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 E). The applicant replied on 9 May 23 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. The applicant also provided further evidence of community service and character references.

The applicant's complete response is at Exhibit F.

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 paragraphs 6 and 7 of the Wilkie Memo.

On 25 Apr 22, the Board staff provided the applicant a copy of the guidance (Exhibit E).

Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, describes the authorized service characterizations.

[REDACTED]

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.

AIR FORCE EVALUATION

DAF/JA recommends denying the application finding the applicant has not submitted any new evidence or information that casts doubt on the legal sufficiency of the Air Force's multiple opportunities for correction, multiple disciplinary actions, or subsequent discharge. There was more than sufficient evidence for her command to find her misconduct warranted administrative separation action.

As regards the NJP, the commander did not abuse his discretion in administering the NJP, finding the applicant committed the offense as alleged, or imposing punishment. The punishment imposed was within the permissible range for the applicant's offense. After the advice provided by counsel, the applicant could have demanded court-martial in lieu of NJP and presented her case and any evidence before a jury of her peers, which she opted against. DAF/JA notes she even withdrew her appeal of the NJP. As for the applicant's allegation of an error regarding Article 107, DAF/JA does not find it dispositive as her discharge was due to her repeated misconduct involving dereliction of duty, not for a supposed single incident of false official statement. Her argument of error regarding the Oct 91 incident also lacks merit for similar reasons. Additionally, her allegation of innocence now lacks merit as there is no evidence to justify overturning her commander's determination. As for the applicant's allegation of injustice due to her "plethora of accomplishments" during her service, DAF/JA finds it lacks merit when viewed with her numerous documented instances of misconduct.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 1 Mar 22 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

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

[REDACTED]

3. After reviewing all Exhibits, the Board concludes the applicant has presented evidence sufficient to demonstrate an injustice regarding part, but not all, of her request. While the Board finds no error in the original discharge process, in the interest of justice, the Board recommends partial relief based on fundamental fairness. In particular, the applicant provided an FBI report with no post-service criminal history, numerous post-service certificates of achievement and character reference letters, and a copy of her college degree and transcripts. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness and finds the applicant's post-service accomplishments providing support to her community through her active involvement in the

[REDACTED] and the choir vice-president of her church music ministry, although disagreeing with the recommendation of DAF/JA, demonstrates to the Board she made a successful post-service transition and is substantial enough for the Board to conclude she overcame the misconduct that precipitated the discharge. Therefore, the Board recommends correcting the applicant's records as indicated below. However, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice. With regards to the applicant's request to remove her Record of Individual Counseling in violation of Article 107, the Board finds the applicant had several instances of misconduct and finds the applicant's commander followed the provisions of the governing regulation and the punishment was not unduly harsh, or disproportionate to the offenses committed. The evidence presented does not show the applicant was unjustly coerced into accepting a lower discharge status nor was she unfairly targeted by her leadership for dereliction of duty. The applicant was given ample opportunity to correct her behavior through several counseling sessions. Therefore, the Board recommends against correcting this portion of the applicant's request.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 13 April 1992, she 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-2021-01931 in Executive Session on 23 Apr 24:

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

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

[REDACTED]

- Exhibit A: Application, DD Form 149, w/atchs, dated 16 Apr 21.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, DAF/JA, dated 28 Feb 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Mar 22.
- Exhibit E: Letter, SAF/MRBC, w/atchs (Post-Service Request and Wilkie Memo Guidance), dated 25 Apr 22.
- Exhibit F: Applicant's Response, w/atchs, dated 9 May 23.

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.

6/24/2025

[REDACTED]

Board Operations Manager, AFBCMR
Signed by: USAF