



**CUI//SP-MIL/SP-PRVCY**

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

*Work-Product*

**DOCKET NUMBER:** BC-2021-02002

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

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

**APPLICANT'S CONTENTIONS**

He was discharged from service because he was an alcoholic but was not offered any rehabilitation or detox. He has been a member of Alcoholics Anonymous since 29 Aug 14 without a drink. He indicated he had other mental health issues on his application.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 19 Sep 80, 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*, paragraph 2.15a for a pattern of frequent involvement of a discreditable nature with military authorities. The specific reasons for the action were:

- a. Dated 5 May 80, AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for destruction of property. He received a reduction in grade to airman (E-2), suspended until 29 Oct 80, 14 days of base restriction, and forfeiture of pay of \$100.00.
- b. Dated 27 Jun 80, AF Form 3070, indicates the applicant received NJP, Article 15 for destruction of property. He received 30 days of extra duty and forfeiture of \$100.00 pay for 2 months.
- c. Dated 13 Aug 80, AF Form 3070, indicates the applicant received NJP, Article 15 for drinking before duty and wearing an earring. On 28 Aug 80, the applicant appealed the

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decision stating the punishment was unduly severe and he voluntarily entered an alcohol rehabilitation program. On 29 Aug 80, his appeal was denied. He received a reduction in grade to airman basic (E-1), forfeiture of \$100.00 pay for 2 months, 30 days of extra duty, and 30 days of base restriction.

Dated 25 Sep 80, a letter from the Drug/Alcohol Abuse Control Section indicates the applicant completed the Alcohol Awareness Program. It was recommended he needed more support and he be afforded the opportunity for more intensive treatment.

On 6 Oct 80, the Staff Judge Advocate found the discharge action legally sufficient.

On 8 Oct 80, the discharge authority directed the applicant be discharged for misconduct, with a general service characterization. Probation and rehabilitation was considered, but not offered.

On 20 Oct 80, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct – Frequent Involvement with Civil/Military Authorities – Evaluation Officer" and he was credited with 1 year, 1 month, and 29 days of total active service.

On 8 Apr 82, the Air Force Personnel Board (AFPB) denied the applicant's request to change his reenlistment (RE) code to allow reentry into the Air Force noting his difficulties with the Air Force were partially due to alcoholism but no evidence has been offered to support his claim that his alcoholism has been terminated.

On 25 Oct 82, the applicant submitted a request to the Air Force Board for the Correction of Military Records (AFBCMR) for a change to his RE code. On 13 Jan 83, the applicant's request was denied stating insufficient relevant evidence was submitted upon which to reconsider his previous application.

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

**POST-SERVICE INFORMATION**

On 25 Oct 21, the Board sent the applicant a request for post-service information, including a request for a standard criminal history report from the Federal Bureau of Investigation (FBI); however, he has not replied.

**APPLICABLE AUTHORITY/GUIDANCE**

On 3 Sep 14, the Secretary of Defense issued a memorandum providing guidance to the Military Department Boards for Correction of Military/Naval Records as they carefully consider each petition regarding discharge upgrade requests by veterans claiming PTSD. In addition, time limits to reconsider decisions will be liberally waived for applications covered by this guidance.

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On 25 Aug 17, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued clarifying guidance to Discharge Review Boards and Boards for Correction of Military/Naval Records considering requests by veterans for modification of their discharges due in whole or in part to mental health conditions [PTSD, Traumatic Brain Injury (TBI), sexual assault, or sexual harassment]. Liberal consideration will be given to veterans petitioning for discharge relief when the application for relief is based in whole or in part on the aforementioned conditions.

Under Consideration of Mitigating Factors, it is noted that PTSD is not a likely cause of premeditated misconduct. Correction Boards will exercise caution in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with the aforementioned mental health conditions and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

Boards are directed to consider the following main questions when assessing requests due to mental health conditions including PTSD, TBI, sexual assault, or sexual harassment:

- a. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
- b. Did that condition exist/experience occur during military service?
- c. Does that condition or experience actually excuse or mitigate the discharge?
- d. Does that condition or experience outweigh the discharge?

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 25 Oct 21, the 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.

#### **AIR FORCE EVALUATION**

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for the desired changes to his record. The applicant clearly had alcohol dependency issues during his brief time in service. All of his misconduct were alcohol related incidents resulting in three Article 15s. The applicant's service treatment records revealed he was command referred for an evaluation following his first alcohol related incident ensuing his participation and completion of the Alcohol Awareness Program from 30 Apr 80 to 27 May 80. He continued to engage in alcohol related incidents and re-entered alcohol rehabilitation treatment on 11 Aug 80. Although he had requested, which was supported by numerous individuals, to participate in the Alcohol Treatment Program, his request for this more intensive treatment program was denied by his commander and not recommended by the evaluation officer due to the serious nature of his misconduct of damaging government property on two occasions while intoxicated, and he was reported to have continued to drink despite receiving rehabilitation for his problems. The evaluation officer had reported his commander/leadership had provided to him ample opportunities to repair his behaviors, but he was not amenable to those efforts demonstrating his failure for rehabilitation. This Psychological Advisor concurs with the opinion rendered by his commander and evaluation officer. The applicant was given time and opportunities to change his behaviors, but he had a continual disregard for rules and regulations that made him unsuitable for rehabilitation services. The applicant claimed he was not offered any rehabilitation or detoxification treatment for his alcohol issues; however, his military records provided a contrary narrative. He was offered and received alcohol education and local rehabilitation services during service. He was denied entry into a more intensive treatment program because his commander believed additional rehabilitation efforts would be futile due to his behaviors. It appeared his commander's assessment was valid as the applicant continued to have problems with alcohol post-service and did not achieve sustained sobriety until 2014, 34 years post discharge, per the applicant's report. The applicant's alcohol issues were considered to be unsuited for continued military service with no evidence his military duties aggravated or caused his alcohol problems. Besides his alcohol issues, there was no evidence he had any other mental health condition that may cause his behaviors or caused him to use alcohol to cope. Unsuitable conditions result in an administrative discharge and could be furnished with an honorable or general discharge. The decision for his service characterization was at his commander's discretion and it appeared his commander elected a general characterization based on his pattern of misconduct and service record. Thus, this Psychological Advisor finds no error or injustice with his discharge from service.

Liberal consideration is applied to the applicant's request due to the contention of a mental health condition. The following are responses to the four questions in the policy based on the available records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

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The applicant contends he had problems with alcohol and was not offered any rehabilitation or detoxification for his problems.

2. Did the condition exist or experience occur during military service?

There is evidence the applicant had problems with alcohol causing all of his alcohol related misconduct during military service. He was command referred to an evaluation following his first alcohol related incident and participated in the Alcohol Awareness Program and subsequent local rehabilitation program.

3. Does the condition or experience excuse or mitigate the discharge?

The applicant's alcohol problems caused his misconduct and eventual discharge from service. Alcohol/substance issues are considered to be unsuited for continued military service and he was appropriately administratively discharged from service for this reason. His condition/issues with alcohol may cause his discharge but does not excuse or mitigate his discharge. There was no evidence his mental health condition besides his alcohol issues caused his behaviors during service.

4. Does the condition or experience outweigh the discharge?

Since his unsuited condition of alcohol issues were determined to not excuse or mitigate his discharge, they also do not outweigh his original discharge.

The complete advisory opinion is at Exhibit D.

**APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 16 Feb 22 for comment (Exhibit E), but has received no response.

**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. The Board concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. In the interest of justice and fundamental fairness, the Board considered upgrading the discharge based on clemency; however, given the evidence presented and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Furthermore, the Board notes the applicant's contention that he had an alcohol problem and other mental health ailments to which he believed the Air Force did not provide help. However, the Board does not find the evidence presented sufficient to conclude that his mental health condition




excuses, mitigates, or outweighs his original discharge nor did the Board find any evidence to support his claim that the Air Force offered no help. Therefore, the Board is satisfied that the application of liberal consideration does not warrant relief. Accordingly, the Board recommends against correcting the applicant's records.

**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-2021-02002 in Executive Session on 25 May 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/atch, dated 7 May 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 25 Oct 21.
- Exhibit D: Advisory Opinion, AFRBA Psychological Advisor, dated 15 Nov 21.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Feb 22.

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.

3/21/2023

 *Work-Product*

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Board Operations Manager, AFBCMR  
Signed by: USAF