



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02014

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His name on his DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, be changed from [REDACTED] to [REDACTED].
3. His race on his DD Form 214 be changed from "Caucasian" to "Mongolian"

APPLICANT'S CONTENTIONS

His DD Form 214 should match his current legal documents.

In support of his request for clemency, the applicant provides court documents, driver license, several character statements from family members, and a personal statement showing post-service information.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 2 Mar 62, DD Form 4, *Enlistment Record - Armed Forces of the United States*, indicates the applicant enlisted in the Air Force for four years. The name indicated is [REDACTED] and race is indicated as "Cau."

On 20 May 63, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFR 39-16, *Administrative Separation of Airmen*. The specific reasons for recommending discharge are Character and Behavior Disorders and failure to conform to Air Force Standards. Some specific deficiencies were:

- a. Failure to maintain off duty behavior on four occasions: 16 Oct 62, 7 Nov 62, 25 Dec 62, and 26 Dec 62.

AFBCMR Docket Number BC-2021-02014

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

- b. Failure to go to his appointed place of duty at the prescribed time on two occasions: 16 Aug 62 and 13 Jan 63.

On 24 May 63, the discharge authority directed the applicant be discharged with General discharge.

On 28 May 63, the DD Form 214 indicates the applicant received a general (under honorable conditions) discharge. He was credited with 1 years, 2 months, and 10 days of total active service.

On 29 Mar 71, General Services Administration (GSA) Form 6915, *National Personnel Records Center Memorandum*, shows the applicant's request for name change to his military records was denied. The memorandum states, in part, "This office does not amend records, discharge certificates, or issue a new discharge certificate in a person's new name when change in name occurs after discharge."

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 replied on 6 Oct 21 and provided an FBI report. According to the report, the applicant was arrested and charged on 18 Oct 83 for Driving While Intoxicated (DWI). In addition, the applicant provides court documents, driver license, several character statements from family members, and a personal statement showing post-service information.

The applicant's complete response is at Exhibit D.

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, Board staff provided the applicant a copy of the clemency 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.

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.

AIR FORCE EVALUATION

HQ AFPC/DP2STM recommends denying the application. The technicians prepared the document as indicated by the requirements listed at the time of discharge in 1963. The applicant's name and race as indicated on his DD Form 214, based on reviewing several documents in the applicant's master of personnel records, are correct. Furthermore, the commander provided the Base Discharge Authority ample evidence to support separation and the character of service. The discharge authority determined that the negative behavior of the applicant outweighed any positive aspects of the applicant's brief military career. Based on review of the applicant's request and the master of personnel record, there is no error or injustice with the discharge processing or preparation of the DD Form 214.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 28 Feb 22 for comment (Exhibit F) 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. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2STM and finds a preponderance of the evidence does not substantiate the applicant's contentions. The technicians prepared the document as indicated by the requirements listed at the time of discharge in 1963. The applicant's name and race as indicated on his DD Form 214, based on reviewing several documents in the applicant's master of personnel records, are correct. Also, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. The applicant has provided no evidence that would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. Nonetheless, in the interest of justice, the Board considered upgrading the applicant's discharge. In support of his request for an upgrade, the applicant has provided an FBI report which shows an arrest and charge in 1983 for DWI, and four-character statements, two of which are from his children. However, the evidence he provides lacks references that demonstrate his character, post-service rehabilitation, service to the community, or any degree of remorse pertaining to his in-service conduct. The Board contemplated the many principles included in the Wilke Memo to determine whether to grant relief based on an injustice or fundamental fairness. However, given the evidence presented, the Board determined relief is not warranted. Therefore, the Board recommends against correcting the applicant's record. The applicant retains the right to request reconsideration of this decision, which could be in the form of a personal statement, character statements, or testimonials from community leaders/members specifically describing how his efforts in the community have impacted others. Should the applicant provide documentation pertaining to his post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of his request based on fundamental fairness.

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-2021-02014 in Executive Session on 22 Nov 22:

Panel Chair
Panel Member
Panel Member

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

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

AFBCMR Docket Number BC-2021-02014

Exhibit D: Applicant's Response, w/FBI Report, dated 6 Oct 21.
Exhibit E: Advisory Opinion, AFPC/DP2STM, dated 14 Feb 22.
Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 28 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.

4/15/2025

X

Board Operations Manager, AFBCMR

Signed by:

AFBCMR Docket Number BC-2021-02014