



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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00639

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

**APPLICANT'S REQUEST**

His under other than honorable conditions (UOTHC) discharge be upgraded.

**APPLICANT'S CONTENTIONS**

He was unfit for the military at the time of his service. Since leaving the military, he has been gainfully employed for over 25 years with a state agency. He has not had any criminal activity since his discharge. He has been married for over 25 years and volunteers for many programs.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 27 Mar 81, 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 frequent involvement of discreditable nature with military authorities. The specific reasons for the action were:

- a. Dated 5 Jun 80, AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for dereliction of duties. He received a forfeiture of pay of \$104 for two months, seven days extra duty, and base restriction.
- b. On 28 Aug 80, a Letter of Reprimand (LOR) was issued for failure to go.
- c. Dated 8 Sep 80, AF Form 3070, indicates the applicant received NJP, Article 15 for failure to go and failure to obey a lawful order. He received a reduction in grade to E-1.
- d. Dated 13 Jan 81, AF Form 3070, indicates the applicant received NJP, Article 15 for failure to go. He received a reduction in grade to E-1, forfeiture of \$50, and seven days of extra duty and base restriction.
- e. On 20 Jan 81, an LOR was issued for a failure to perform additional duties as mandated by his previous Article 15 punishment.

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Controlled by: SAF/MRB  
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f. On 3 Feb 81, an LOR was issued for being named as an accessory to a breaking and entering case.

g. Dated 16 Mar 81, AF Form 3070, indicates the applicant received NJP, Article 15 for two counts of failure to go. He received a forfeiture of \$117 and seven days of base restriction.

On 2 Apr 81, the applicant submitted a request for a conditional waiver contingent upon his receipt of a general discharge.

On 15 Apr 81, the applicant's commander denied his request for a conditional waiver, contingent upon his receipt of a general discharge.

On 16 Apr 81, the applicant submitted a request to waive his rights to an administrative board hearing.

On 1 May 81, the Deputy Chief of the Civil Law Division found the discharge action legally sufficient.

On 11 May 81, the discharge authority directed the applicant be discharged with UOTHC service characterization. Probation and rehabilitation was considered, but not offered.

On 14 May 81, the applicant received a UOTHC discharge. His narrative reason for separation is "Misconduct Frequent Involvement with Civil/Mil Authorities Board Waiver" and he was credited with one year, three months, and eight days of total active service.

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

## **POST-SERVICE INFORMATION**

On 25 Feb 22, 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 19 May 22 and provided an FBI report. According to the report, the applicant was arrested on 11 Nov 04 for domestic assault and obstruction of emergency communications. He received a misdemeanor conviction and was ordered to pay a \$100 fine. The applicant also provided a personal statement and a statement from his spouse, character statements, a letter of his electrical licensure, and evidence of community service.

The applicant's complete response is at Exhibit D.

## **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 the supplemental guidance, paragraphs 6 and 7.

On 25 Feb 22, the Board staff provided the applicant a copy of the clemency based on fundamental fairness 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.

## FINDINGS AND CONCLUSION

1. The application was timely filed. Given the requirement for passage of time, most discharge upgrade requests are technically untimely. Given the requirement for passage of time, most discharge upgrade requests are technically untimely. However, it would be illogical to deny a discharge upgrade application as untimely, since the Board typically looks for evidence of good conduct post-service. However, it would be illogical to deny a discharge upgrade application as untimely, since the Board typically looks for evidence 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on injustice. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness. Furthermore, the Board considered the applicant's post-service conduct and achievements, length of time since the misconduct, his character and reputation, service to the community, job history and degree of contrition. Given the evidence presented, the Board finds the applicant's post-service accomplishments sufficient enough to warrant a discharge upgrade. Therefore, the Board 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 on 14 May 81, he was discharged with service characterized as general (under honorable conditions), and a separation code and corresponding narrative reason for separation of JFF (Secretarial Authority).

## 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 2.1, considered Docket Number BC-2022-00639 in Executive Session on 16 Feb 23:

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

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

- Exhibit A: Application, DD Form 149, dated 11 Jan 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 25 Feb 22.
- Exhibit D: Applicant's Response, w/atchs, dated 19 May 22.

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.

6/10/2025

[REDACTED]

Board Operations Manager, AFBCMR  
Signed by: USAF

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