



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-2022-00684

COUNSEL:

Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His narrative reason for separation on his DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed from "Drug Abuse Rehabilitation Failure" to "Secretarial Authority."

APPLICANT'S CONTENTIONS

The applicant through counsels contends his narrative reason for separation is categorically untrue. Not only was he not offered rehabilitation treatment before his discharge, but his narrative reason for separation has caused him shame since his separation. Further, in a society that no longer condemns the use of marijuana, liberal consideration should be given to removing the narrative reason for separation, as such use would be viewed less severely today than decades ago. Finally, he has lived a sober life since rehabilitating in 1998 and has not had any drug or alcohol related issues.

In support of his request for clemency, the applicant provides a personal statement, numerous post-service certificates of achievement, Graduation Certificate, Academic Honor Provost's List Certificates, civilian memberships and licenses, and other documents related to his request for a change in his narrative reason for separation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman (E-2).

On 13 Dec 83, the DD Form 214, provided by the applicant, indicates the applicant received an honorable discharge. His narrative reason for separation is "Drug Abuse Rehabilitation Failure" and he was credited with one year, six months, and three days of total active service.

POST-SERVICE INFORMATION

On 9 Mar 22, the Board sent counsel a request for post-service information and advised the applicant 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 B). Counsel replied on 28 Mar 22 and provided an FBI report. According to the report, the applicant:

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Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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1. Pled guilty/convicted on 23 Jun 87 for “Traffic-DUI-Alcohol or Controlled Substance.”
2. Pled guilty/convicted on 17 Jul 89 for “Traffic-DUI-Alcohol or Controlled Substance.”
3. Pled guilty/convicted on 7 Mar 94 for “Traffic-DUI-Alcohol or Controlled Substance.”
4. Pled guilty/convicted on 26 May 15 for “Disorderly Conduct-Offensive/Abusive/Noisy/Obscene.”

The applicant also provided an Addiction Therapy and Psychology Report (dated 24 Apr 15), and personal statement for his Federal Aviation Administration certification (dated 10 Feb 22).

The applicant’s complete response is at Exhibit C.

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 paragraphs 6 and 7 of the Wilkie memorandum.

On 9 Mar 22, the Board staff provided counsel a copy of the liberal consideration guidance (Exhibit B).

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. Based on the available evidence of record, 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. The Board contemplated the many principles included in the Wilke 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, and his numerous post-service certificates of achievement. 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.


4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board’s understanding of the issues involved.

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 the 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-2022-00684 in Executive Session on 22 Feb 23:

-  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 3 Mar 22.
- Exhibit B: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 9 Mar 22.
- Exhibit C: Applicant Response w/FBI Report, dated, 28 Mar 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.

11/14/2023



Board Operations Manager, AFBCMR
Signed by: USAF