



**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-2022-01146

**COUNSEL:**

*Work-Product*

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be corrected to reflect the following:

1. Block 24, *Character of Service* to reflect Honorable.
2. Block 26, *Separation Code* and Block 27, *Reentry Code* be changed to allow reenlistment or commission.
3. Block 28, *Narrative Reason for Separation* to reflect Secretarial Authority.

**APPLICANT'S CONTENTIONS**

He should have been the recipient of a constructive waiver and been retained in the military. His recruiter advised him to answer "No" to all the questions on drug use since it was not a problem at the current time. He did not have any criminal drug use and had only briefly used drugs recreationally while in college.

The applicant's complete submission is at Exhibit D.

**STATEMENT OF FACTS**

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

On 16 Jun 04, the applicant received a general (under honorable conditions) discharge. His Narrative Reason for Separation is "Fraudulent Entry into Military Service." He was credited with 1 year, 2 months, and 28 days of total active service.

On 14 Jun 13, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 5 Aug 13, 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.

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On 10 Dec 18, the applicant submitted a request to the AFDRB for an upgrade to his discharge.

On 16 Jun 20, 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.

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

**POST-SERVICE INFORMATION**

On 3 Jun 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 13 Sep 22 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. The applicant also provided a character reference letter and post-service achievements and certificates.

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 paragraphs 6 and 7 of the Wilkie memorandum.

On 3 Jun 22, the Board staff provided the applicant a copy of the clemency guidance (Exhibit C).

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

**Honorable.** The quality of the airman's service generally has met Department of the 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.

**General (Under Honorable Conditions).** 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 member's military record.

**FINDINGS AND CONCLUSION**

1. The application was timely filed. Given the requirement for passage of time, all clemency and discharge upgrade requests are technically untimely. However, it would be illogical to deny such 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. It appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. In the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, the Board finds no basis to do so. Should the applicant provide additional post-service information, the Board may be willing to reconsider his request. Therefore, the Board recommends against correcting the applicant's record.
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 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-2022-00192 in Executive Session on 24 May 23:

*Work-Product* [redacted] Panel Chair  
*Work-Product* [redacted], Panel Member  
*Work-Product* [redacted] Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 2 Apr 22.
- 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 3 Jun 22.
- Exhibit D: Applicant's Response, w/atchs, dated 13 Sep 22.

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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.

10/10/2024

*Work-Product*

Board Operations Manager, AFBCMR

Signed by:

*Work-Product*