

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00100

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: Work...

APPLICANT'S REQUEST

The Non-Judicial Punishment (NJP), dated 23 Nov 82, be removed from his record in accordance with the Uniformed Code of Military Justice (UCMJ) and current Air Force regulations.

APPLICANT'S CONTENTIONS

He has no further UCMJ actions and has since retired from the United States Army as a chief warrant officer 4.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is former Air Force senior airman (E-4) who entered the Regular Air Force on 1 Feb 82.

On 17 Nov 82, according to AF Form 3070, *Notification of Intent to Impose Nonjudicial Punishment*, provided by the applicant, the applicant's commander notified him of his intent to impose non-judicial punishment because on or about 12 Nov 82, the applicant operated a passenger car while drunk, in violation of Article 111, Uniform Code of Military Justice.

On 22 Nov 82, the applicant indicated he consulted with a lawyer, waived his right to court-martial, accepted nonjudicial punishment (NJP) proceedings, provided a written presentation, and requested a personal appearance before the commander.

On 23 Nov 82, the commander decided the applicant committed one or more of the alleged offenses and imposed the following punishment: Reduction to the grade of E-1, suspended through 23 Mar 83, after which time it would be remitted without further action, unless sooner vacated. In imposing the punishment, the commander considered matters the applicant submitted and his personal presentation.

On 23 Nov 82, the applicant acknowledged receipt of the punishment and indicated he would not appeal the decision.

On 30 Nov 82, JA found the non-judicial punishment legally sufficient.

On 31 Jan 86, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably discharged from the Air Force in the rank of senior airman and was credited with four years of active service.

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

AIR FORCE EVALUATION

AFPC/DPMSSM recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. According to DAFI 36-2907, *Adverse Administrative Actions*, dated 14 Oct 22, the disposition date for Article 15s is the date the punishment or suspension was complete or the date the judgement was vacated (minimum); two years from the date of the commander's punishment decision (maximum).

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 8 Sep 23 for comment (Exhibit D) but has received no response.

ADDITIONAL AIR FORCE EVALUATION

AFPC/DPMSSM recommends denying the application. According to the AF Form 3070, in the applicant's archived record, he received an Article 15 in which he acknowledged punishment on 22 Nov 1982. Procedurally, the NJP was administered in accordance with the published guidance at the time, AFR 35-32, *Unfavorable Information Files, Control Rosters, Administrative Reprimands and Admonitions*, dated 12 Feb 82. As it pertains to removal of NJP, refer to AFR 35-32, paragraph 10, Disposition of Unfavorable Information Files (UIFs). The applicant is requesting removal of the NJP; however, he is citing the guidance for disposition of the UIF which the NJP generated. Paragraph 10 states "The action or actions being placed into the UIF determines the UIF's disposition date." If the Article 15 included a suspended punishment, an interim disposition date expires on expiration of suspension, however, the UIF will remain open until final disposition date. According to paragraph 10f, final UIF disposition for an Article 15 is two years from the date the commander signed AF Form 3070, block 6 or 7. The two-year disposition the applicant is referring to does not apply to his NJP, but the UIF it initiated.

The Article 15 document the applicant is requesting to be removed has been in his records since 1982. There is no evidence indicating at any time since 1982 the applicant requested the document be removed. The applicant's request is referring to removal of the document under current guidance. The current guidance, DAFI 36-2608, *Military Personnel Records Systems*, dated 16 Apr 21, reflects AF Form 3070 is permanently filed under Correspondence and Miscellaneous in the Master Personnel Record Group (MPerRGp) reference table A2-1, rule 153. Per the Automated Records Management System Business Process Owner, the Air Force does not delete documents from the MPerRGp, documents are retained for historical and legal use/value.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 19 Oct 23 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find it in the interest of justice to waive the three-year filing requirement.
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/DPMSSM dated 10 Oct 23 and finds a preponderance of the evidence does not substantiate the applicant's contentions. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The Air Force does not delete documents from MPerRGp, documents are retained for historical and legal use/value. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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-2023-00100 in Executive Session on 7 Nov 23:

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/atchs, dated 21 Nov 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 7 Sep 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Sep 23.
- Exhibit E: Additional Advisory, AFPC/DPMSSM, dated 13 Oct 23.
- Exhibit F: Notification of Additional Advisory, SAF/MRBC to Applicant, dated 19 Oct 23.

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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.

8/29/2025

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Board Operations Manager, AFBCMR

Signed by: *Work-Product*

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