



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01301

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His court-martial be removed from his record, to include his grade to airman first class (E-3) be restored, and he be reimbursed for any monetary deductions.

He be awarded the Small Arms Expert Marksmanship Ribbon (SAEMR).

APPLICANT'S CONTENTIONS

The Board previously upgraded his discharge to general (under honorable conditions), and corrected the narrative reason for separation and its corresponding separation program designator (SPD) code to "Secretarial Authority." He prays the Board can remove the entire injustice from his record.

The applicant's complete submission is at Exhibit A.

APPLICABLE AUTHORITY

This Board is without authority to reverse, set aside, or otherwise expunge a court-martial conviction. Rather, in accordance with Title 10, United States Code, Section 1552(f), actions by this Board regarding courts-martial are limited to two types: 1) corrections reflecting actions taken by the reviewing officials pursuant to the UCMJ (for example, if a convening authority or appellate court took action but that action was not reflected in an Air Force record); and 2) action on only the sentence of the court-martial and solely for the purpose of clemency.

STATEMENT OF FACTS

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

On 23 Feb 89, the convening authority published General Court-Martial Order *Work-Product*. The order stated the applicant pled not guilty to one charge and two specifications of wrongful use of cocaine and marijuana (Article 112a). He was found not guilty for wrongful use of cocaine, but guilty for wrongful use of marijuana. The applicant was sentenced to confinement for six months, forfeiture of \$515.00 pay per month for six months, reduction to the grade of airman basic, and a bad conduct discharge (BCD).

On 25 Mar 89, according to General Court-Martial Order *Work-Product*, dated 29 Nov 89, the convening authority remitted the portion of the sentence requiring forfeitures in excess of \$400.00 pay per month for six months. On 29 Nov 89, the sentence was affirmed.

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POC: SAF.MRBC.Workflow@us.af.mil

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On 5 Feb 90, the applicant was discharged with a BCD and credited with 3 years, 8 months and 17 days of active service.

On 27 Apr 18, the applicant submitted a request to the Air Force Board for Correction of Military Records (AFBCMR) for an upgrade of his discharge from a BCD to general (under honorable conditions), or in the alternative, to under other than honorable conditions (UOTHC).

On 17 Feb 21, the AFBCMR concluded the applicant was the victim of an injustice and upgraded his discharge to general (under honorable conditions) based on clemency. Specifically, in view of the applicant's successful transition to civilian life, as evidenced by the account of his post-service adjustment, the Board majority found that upgrading his discharge to general (under honorable conditions), and changing the narrative reason for separation and its corresponding separation program designator (SPD) code to "Secretarial Authority," was appropriate.

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

AIR FORCE EVALUATION

AFPC/DP3SP recommends denying the applicant's request for award of the SAEMR. In accordance with (IAW) Department of the Air Force Manual (DAFMAN) 36-2806, dated 27 Oct 22: A14.17.1. The SAEMR is awarded to Regular Air Force, Air National Guard and Air Force Reserve members, who, after 1 Jan 63, qualify as "Expert" with either the M-16 rifle (to include the M-4 and GAU-5) or an issued handgun on the Air Force qualification course, an appropriate orientation course prescribed in other Air Force Instructions, other Military Departments' qualification course, or who satisfactorily complete the Combat Rifle Program. Paragraph A14.17.1.3., AF Form 522, *Ground Weapons Training Data and USAF Firearms Qualification*, or a letter from the small arms marksmanship monitor is used as the source documentation for this award. Members who qualify as "expert" provide a copy of the AF Form 522 or letter to the military personnel flight for update in the member's personnel records.

Based on the applicant's official military personnel record and provided documentation, it is unable to be verified the applicant qualified as an expert with either the M-16 rifle to include the M-4 and GAU-5 or an issued handgun on the Air Force qualification course.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 May 23 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
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/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the applicant's request to remove his general court-martial, restore his grade to airman first

class, and reimburse the monetary deductions associated with his sentencing; however, IAW Title 10, United States Code, Section 1552(f), the Board is without authority to reverse, set aside, or otherwise expunge a court-martial conviction. Furthermore, the Board finds insufficient evidence the applicant is eligible for award of the SAEMR. Therefore, the Board recommends against correcting the applicant's records.

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-2023-01301 in Executive Session on 24 May 23 and 2 Jun 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 29 Sep 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP3SP, dated 2 May 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 2 May 23.
- Exhibit E: AFBCMR Case File, BC-2018-01798, dated 24 Feb 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.

1/2/2024

X **Work-Prod...**

Work-Product
Board Operations Manager, AFBCMR
Signed by: **Work-Product**