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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02646

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His general (under honorable conditions) discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

He never had a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty*, until this year when he requested it. He was shocked to see the discharge read general instead of honorable. He was specifically told upon discharge, after six months, his general would be changed to honorable as a condition of not disputing the discharge at the time. This change to his record was not made. With numerous family members in the military, it is important to him his record be corrected as promised.

He only has his word this is an accurate representation of events which occurred. He is not seeking any benefits from the Department of Veterans Affairs (DVA) or any other agency, he is only requesting what was promised, an honorable discharge.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 9 Nov 88, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of Air Force Regulation (AFR) 39-10, *Administrative Separation of Airmen*, paragraph 5-46 for misconduct – minor disciplinary infractions. The specific reasons for the action were:

- a. On 28 May 87, a Record of Individual Counseling (RIC) indicates he was counselled for showing verbal disrespect on 28 May 87.
- b. On 5 Jun 87, a RIC indicates he was counselled for reporting for duty late on 25 May 87, 29 May 87, and 5 Jun 87.

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- c. On 24 Jun 87, a Letter of Reprimand (LOR) was issued for reporting late for duty, non-compliance with AFR 35-10, *Dress and Personal Appearance of Air Force Personnel*, speeding in a government vehicle, and unnecessary talking over the radio on 20 Jun 87.
- d. On 31 Aug 87, a RIC was issued for speeding on the ramp and driving in the wrong lane on 31 Aug 87.
- e. On 20 Jan 88, a LOR was issued for dereliction of duty in servicing the Q.M. station without using a mandatory checklist on 8 Jan 88.
- f. On 23 Feb 88, a RIC was issued for refueling an aircraft in violation of safety standards on 22 Feb 88.
- g. On 1 Mar 88, a LOR was issued for dereliction of duty in operating a power unit within a fuel servicing area on or about 23 Feb 88.
- h. On 2 May 88, a LOR was issued for consuming alcoholic beverages within three hours prior to duty on 29 Apr 88.
- i. Between 13 May 88 and 15 Jul 88, he wrote three checks to the base exchange without sufficient funds.
- j. On 26 Jul 88 a RIC was issued for writing a check to the base exchange without sufficient funds on 14 Jun 88.
- k. On 27 Sep 88, his on-base driving privileges were suspended for six months because of his irresponsible driving practices.
- l. On 6 Oct 88, a LOR was issued for failing to remain on telephone standby on 2 Oct 88 as ordered.

On 23 Nov 88, the Staff Judge Advocate found the discharge action legally sufficient. On the same date, the discharge authority directed the applicant be discharged for misconduct – minor disciplinary infractions, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 25 Nov 88, the DD Form 214 indicates the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Misconduct – Minor Disciplinary Infractions” and he was credited with 2 years, 1 month, and 25 days of total active service.

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

POST-SERVICE INFORMATION

On 21 Mar 24, 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 5 Jun 24 and provided an FBI report. According to the report, the applicant has had no arrests since discharge.

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 issued supplemental guidance, known as the Wilkie Memo, 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 Memo.

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 discharge upgrade requests under fundamental fairness or clemency are technically untimely. However, it would be illogical to deny a discharge upgrade 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. Section 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, the Board finds 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 which 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 nor did the Board find evidence to support his contention he was told it would be updated six months after his separation. Nonetheless, in the interest of justice, the Board considered upgrading the applicant's discharge base on fundamental fairness. In support of his request for an upgrade, the applicant provided an FBI report showing no arrests since his discharge. The applicant makes no other contentions or provides further evidence of his post-service achievements. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness. However, the Board does not find the evidence presented is sufficient to conclude the applicant's post-service activities overcame the misconduct for which he was discharged. This Board very carefully weighs requests to upgrade the character of a discharge and in doing so, considers whether the impact of an applicant's contributions to his or her community since leaving the service are substantial enough for the Board to conclude they overcame the misconduct that precipitated the discharge and whether an upgrade of the discharge would create a larger injustice to those who served honorably and earned the characterization of service the applicant seeks. The applicant retains the right to request reconsideration of this decision, which could be in the form of a personal statement and character statements, or testimonials from community leaders/members specifically describing how his efforts in the community have impacted others. Should the applicant provide documentation pertaining to his post-service accomplishments and activities, this Board would be willing to review the materials for possible reconsideration of his request based on fundamental fairness. Therefore, the Board recommends against correcting the applicant's record.

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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-02646 in Executive Session on 5 Mar 24:

Work-Product, Panel Chair

Work-Product, Panel Member

Work-Product, Panel Member

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

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Exhibit A: Application, DD Form 149, dated 23 Jul 23.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Letter, SAF MRBC (FBI Bulletin with Clemency and Fundamental Fairness Guidance), dated 21 Mar 24.

Exhibit D: FBI Report, dated, 5 Jun 24.

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.

3/11/2025

X

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Board Operations Manager, AFBCMR

Signed by: USAF

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