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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03208

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her general under honorable conditions discharge be upgraded to honorable.

APPLICANT'S CONTENTIONS

She served the United States Air Force honorably from Jun 91 until Jan 98. She had no misconduct during this time of service and was awarded medals and awards as stated on her DD Form 214, *Certificate of Release or Discharge from Active Duty*. She was separated for not being able to fill out her long-term family care plan. She had the short-term plan completed but was unsuccessful in completing the long-term care section. She does not believe this constituted a separation with the narrative reason of misconduct. Upon separation she became a stay-at-home mom from Jan 98 until Sep 15. She has attended college with a dual major in Accounting and Finance. Although she had to leave prior to graduating, she maintained the Dean's List every semester. She has worked full time since 2017, and currently is employed under **Work-Product** as Supervisor for an Army base Shuttle Service.

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 22 Dec 97, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, chapter 5, section H, paragraph 5.29, for minor disciplinary infractions. The specific reasons for the action were:

- a. On 10 Sep 97, a Letter of Reprimand (LOR) was issued for failing to comply with a direct order to complete the AF Form 357, *Family Care Certification*, within 30 days. In this letter, dated 8 Aug 97, the first sergeant informed the applicant of the responsibility to complete her family care plan which stressed the importance of having dependent care arrangements which would allow for worldwide deployments and other military obligations. This letter further outlined all the requirements to have a family care plan in place. The applicant submitted a

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response on 20 Aug 97 explaining why she could not comply with this request stating she did not have any family or other support to which she would entrust her children to and asked for an early out.

b. On 17 Oct 97, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP) Article 15 for failure to obey a lawful order from a noncommissioned officer to complete a family care certification. She received a reduction in grade to airman (E-2), but that portion that provides for reduction below the grade of airman first class (E-3) was suspended until 16 Apr 98, unless sooner vacated. Her new date of rank as airman first class was 17 Oct 97.

c. On 16 Dec 97, a LOR was issued for failing to comply with an order issued by her commander to complete the AF Form 357 between 9 Oct 97 and 16 Dec 97.

On 24 Dec 97, the applicant acknowledged receipt of the discharge action and submitted a conditional waiver statement, waving her right to an administrative discharge board and acknowledging her the right to submit a statement on her behalf contingent of a honorable discharge. On 29 Dec 97, the applicant's commander recommended to deny the waiver, and on this same date, a legal review of the waiver by the Staff Judge Advocate yielded a deny recommendation. On 30 Dec 97 the offer was rejected by the convening authority.

On 31 Dec 97, the applicant acknowledged receipt of her conditional waiver request and submitted another conditional waiver statement, waiving her right to an administrative discharge board and acknowledging her right to submit a statement on her behalf contingent of a general discharge. On 5 Jan 98, the applicant's commander recommended to approve the waiver, and on this same date, a legal review of the waiver, by the Staff Judge Advocate, yielded an approve recommendation. On 15 Jan 97 [sic] the offer was approved by the convening authority.

On 20 Jan 98, the applicant received a general (under honorable conditions) discharge. Her narrative reason for separation is "Misconduct" and she was credited with 6 years 6 months and 26 days of total active service.

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

POST-SERVICE INFORMATION

On 3 Apr 24, the Board sent the applicant a request for post-service information, including a standard criminal history report from the Federal Bureau of Investigation (FBI). She responded on 29 Apr 24, providing a criminal background check from her employer (Exhibit D). According to the background screening report, the applicant has had no arrests since discharge. Additionally, the applicant provided post service information to include character statements.

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.

On 3 Apr 24, the Board staff provided the applicant a copy of the clarifying 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 is timely. 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 the victim of an injustice. The Board contemplated the many principles included in the Wilkie Memorandum 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, seriousness of the offenses which led to her discharge, her character and reputation, job history, and degree of contrition. The applicant presented supporting evidence indicating she made a successful post-service transition, as indicated by her employment records, and her character reference letters. Given the evidence presented, the Board finds the applicant's post-service accomplishments, continued support of the military, the relative minor nature of her misconduct, and length of time since discharge sufficient enough to warrant a discharge upgrade. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown that a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that on 20 January 1998, she was discharged with service characterized as honorable, and a separation code of JFF and corresponding narrative reason for separation of Secretarial Authority.

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-2023-03208 in Executive Session on 19 Feb 25:

Work-Product, Panel Chair
Work-Product, Panel Member
Work-Product, Panel Member

All members voted to correct the record. The panel considered the following:

The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atch, dated 28 Sep 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clarifying Guidance), dated 3 Apr 24.
- Exhibit D: Applicant’s Response, w/atchs, dated 29 Apr 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.

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Board Operations Manager, AFBCMR
Signed by: USAF