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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03497

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COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

His discharge inaccurately reflects his commitment, intentions, and the circumstances under which he separated. His voluntary separation was initiated with the aim of furthering his education and returning as an officer, a goal aligned with Air Force values. An upgrade would rectify this inconsistency and allow for an accurate representation of his service. In 2006, amidst downsizing, he missed the deadline for voluntary separation. Seeking help from his senior supervisors, he did not question their methods or the characterization of his service, assuming it was necessary for his request to be honored. He was 20 and naively trusted the process, aiming to reenlist and attend college. The correction is imperative, as he requested the separation, and his record unjustly reflects mistreatment, retaliation, assaults, and hazing, which are substantiated by character letters and a medical form. He takes responsibility for the instances he was late and explains his other infractions in detail in his personal statement; however, he was subjected to neglect and disproportionately harsh penalties for minor infractions. Upgrading to honorable aligns with his true service nature and corrects past injustices. Throughout his military and post-service life, he has demonstrated a steadfast commitment to service and accountability. While he acknowledges any shortcomings during his time, many circumstances were heavily influenced by mistreatment. His subsequent educational and professional achievements reflect his dedication to bettering himself and a commitment to serving his country.

In support of his request for a discharge upgrade, the applicant provides personal statements, character references, witness statements attesting to his mistreatment and his work performance during service, and documents from his personnel file.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

AFBCMR Docket Number BC-2023-03497

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The applicant is a former Air Force airman (E-2).

On 27 Nov 06, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50.2 for a pattern of misconduct, conduct prejudicial to good order and discipline. The specific reasons for the action were:

- a. On 18 Apr 05, a Record of Individual Counseling (RIC) was issued for failing to report to a scheduled training event on or about 18 Apr 05.
- b. On 7 Jun 05, a Letter of Reprimand (LOR) was issued for failing to go at the time prescribed to a scheduled class on or about 6 Jun 05.
- c. On 10 Mar 06, an LOR was issued for failing to obey the orders given to him by a security forces (SF) patrolman who was acting in the line of duty, on or about 20 Nov 05.
- d. On 5 Apr 06, an LOR was issued for recklessly operating a motor vehicle without a license in his possession on or about 23 Feb 06.
- e. On 17 Aug 06, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant receive nonjudicial punishment (NJP), Article 15 for driving on a suspended license on or about 16 Jul 06. The applicant received a reduction to the grade of airman (E-2), suspended, 30 days restriction and extra duty, and a reprimand.
- f. On 25 Sep 06, an AF Form 366, *Record of Proceedings of Vacation of Suspended Nonjudicial Punishment*, indicates the applicant's suspended NJP was vacated for failing to go at the time prescribed to his appointed place of duty on or about 19 Aug 06. The applicant received a reduction to the grade of airman (E-2).

On 3 Dec 06, the Acting Deputy Staff Judge Advocate found the discharge action legally sufficient.

On 7 Dec 06, the discharge authority directed the applicant be discharged for a pattern of misconduct – conduct prejudicial to good order and discipline, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 18 Dec 06, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 2 years, 5 months, and 12 days of total active service.

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

POST-SERVICE INFORMATION

On 21 Feb 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 9 Sep 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.

On 21 Feb 24, the Board staff provided the applicant a copy of the clemency/fundamental fairness 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 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. 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. The Board noted the applicant's contention of alleged mistreatment; however, this does not mitigate the misconduct and subsequent discharge. Additionally, 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. The Board contemplated the many principles included in the Wilke 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. In particular, the applicant did not provide sufficient evidence to corroborate his claimed post-service achievements and employment. 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 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. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision by providing additional evidence regarding his post-service contributions, achievements, and employment. Should the applicant provide this documentation, this Board would be willing to review the materials for possible reconsideration of his request based on fundamental fairness.

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

AFBCMR Docket Number BC-2023-03497

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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-2023-03497 in Executive Session on 18 Jun 25:

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, Panel Chair

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, Panel Member

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, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 23 Oct 23.

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

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

Exhibit D: FBI Report, dated, 9 Sep 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.

6/26/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

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