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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03132

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COUNSEL:

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(AKA)

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HEARING REQUESTED: YES

### APPLICANT'S REQUEST

1. Her "Uncharacterized" Entry Level Separation (ELS) be upgraded to general (under honorable conditions).
2. Her separation code (SPD) be upgraded.
3. Her reentry (RE) code be upgraded.

### APPLICANT'S CONTENTIONS

She is wanting to purchase a home and see if she qualifies for an upgrade in character of service and separation code to under honorable conditions (general). She does not want to be homeless and did not have bad conduct or dishonorable behavior while serving.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 10 Jun 91, 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 5-22b for entry level performance. The specific reason for the action was failure to make satisfactory progress in a required training program.

On 13 Jun 91, the discharge authority directed the applicant be discharged for unsatisfactory performance, with an uncharacterized, ELS.

On 9 Jul 91, the DD Form 214, *Certificate of Release or Discharge from Active Duty*, indicates the applicant received an uncharacterized, ELS. Her narrative reason for separation is "Entry Level Performance" and she was credited with 5 months, and 22 days of total active service. The applicant's RE code is "2C" which denotes involuntarily separated with an honorable discharge; or entry level separation without characterization of service.

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

## POST-SERVICE INFORMATION

On 3 Apr 24, the Board sent the applicant a request for post-service information and advised the applicant she was required to provide a Federal Bureau of Investigation (FBI) Identity History Summary Check, which would indicate whether or not she 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 4 May 24 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. The applicant also provided character statements and various Department of Veterans Affairs (DVA) documents.

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.

**Under Honorable Conditions (General).** 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 airman's military record.

AFI 36-3208, *Administrative Separation of Airmen*, dated 14 Oct 94, describes the authorized service characterization that was applicable at the time of the applicant's separation.

**Entry Level Separation.** Airmen are in entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service. Determine the member's status by the date of notification; thus, if the member is in entry level status when initiating the separation action, describe it as an entry level separation unless:

- A service characterization of under other than honorable conditions is authorized under the reason for discharge and is warranted by the circumstances of the case; or
- The Secretary of the Air Force determines, on a case-by-case basis, that characterization as honorable is clearly warranted by unusual circumstances of personal conduct and performance of military duty.

## **AIR FORCE EVALUATION**

AFPC/DP2SSR recommends denying the application. Airmen are in entry level status during the first 180 days of continuous active military service. The Department of Defense (DoD) determined if a member served less than 180 days continuous active service, it would be unfair to the member and the service to characterize their limited service. Based on review of the applicant's request, there is no error or injustice with the discharge processing.

The complete advisory opinion is at Exhibit E.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 27 Jun 24 for comment (Exhibit F) but has received no response.

## **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 other available administrative remedies 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/DP2SSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. An uncharacterized ELS is given to individuals when the discharge action was initiated prior to 180 days of service. This type of discharge does not characterize service as good or bad but simply indicates the service member's short time in service. This timeframe is not adequate to

characterize the individual's actions during service. Lastly, the applicant has provided no evidence which would lead the Board to believe her RE code was contrary to the provisions of the governing regulation at the time of her separation. The Board finds the RE code annotated on her DD Form 214 represents the situation to which she was separated and is not subject to change unless an error was made in the original annotation. Therefore, the Board recommends against correcting the applicant's records.

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

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-2023-03132 in Executive Session on 6 Feb 25:

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Panel Chair, AFBCMR

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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, dated 20 Sep 23.

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

Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 3 Apr 24.

Exhibit D: FBI Report w/atchs, dated 4 May 24.

Exhibit E: Advisory Opinion, AFPC/DP2SSR, dated 23 May 24.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 27 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.

10/17/2025

X

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GS-15, DAF

Associate Director, AFBCMR

Signed by: USAF

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