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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00259

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COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT’S REQUEST

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His narrative reason for separation changed to “Secretarial Authority.”

APPLICANT’S CONTENTIONS

He should receive a new review because his previous application was decided without the benefit of the Department of Defense's supplemental guidance. Based on the Memorandum from Brad Carson to Secretaries of the Military Departments, *Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI)* (February 24, 2016), his application should be granted de novo review, so the supplemental guidance may be applied to the review of his discharge. His discharge should be upgraded due to his compelling post-discharge record and acceptance of responsibility for his previous actions.

In support of his request, the applicant’s counsel provides the following additional supporting materials: a brief, a personal statement, twenty-two (22) reference letters in support of the application for discharge upgrade, and other documents related to his request for upgrade.

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 6 Mar 74, the applicant’s commander recommended the applicant be discharged from the Air Force, under the provisions of AFM 39-12 *Request for Discharge for the Good of the Service*, paragraph 2-4b, for character and behavior disorder. The specific reasons for the action were:

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- a. On 24 May 73 he received a Letter of Reprimand (LOR), for knowingly escorting an unauthorized person into a Main Base Exchange facility on 12 May 73.
- b. On 29 Jun 73 he received an LOR for illegally using the Automatic Voice Network (Autovon) telephone system to make personal calls and purported to be an officer to do so. Further it was reported he had for a period of at least two months, an officer's registration on his private vehicle, and failed to remove it after having been advised to do so.
- c. On 5 Jul 73 he received a Record of Counseling (ROC), for failure to repair when he showed up for work approximately 45 minutes late.
- d. On 11 Jul 73, a Disciplinary Punishment letter indicates the applicant received nonjudicial punishment (NJP), Article 15 for failure to go at the time prescribed to his appointed place of duty on or about 5 July 73, and being disrespectful to a superior noncommissioned officer. He received a reduction in grade to airman basic, forfeiture of \$25.00 per month for two months and ordered to perform extra duty 2 hours per day for 15 days.
- e. On 27 Dec 73, he received a Letter of Evaluation for Temporary Duty (TDY) from 5 Nov 73 through 23 Dec 73. During this period, he was counseled numerous times on his personal appearance (hair), and on one occasion was ordered to obtain a haircut. On 3 Sep 73 he reported late to his appointed place of duty due to poor planning and a lack of sincere effort on his behalf. He had a rather distorted view of personal responsibility. It stemmed around his employer (the Air Force) being totally obligated to him, but him (airman) being obligated to his employer only as long as his obligation did not interfere with his personal desires. Based on repeated counseling and observations of this airman, if he were a member of my organization, he would definitely not be recommended for further promotion until he demonstrated a sincere and continued attitude change toward Air Force standards and responsibilities.
- f. On 24 Jan 74 he received an ROC for failure to repair. He was informed verbally and by letter of a mandatory inspection. He failed to repair at 24 Jan 74 as instructed. He stated he was waiting for the telephone repairman to install a private telephone in the barracks.
- g. On 24 Jan 74 he received an ROC for coming into his duty section wearing a field jacket with his 1505 uniform. When told the jacket could not be worn with that uniform, he did not seem concerned.
- h. On 25 Jan 74 he received an ROC for failure to obey an order from a senior Non-Commissioned Officer (NCO), and for being out of uniform on 24 Jan 74 and 25 Jan 74.
- i. On 1 Feb 74 he received an LOR for failure to obey a lawful order from an NCO, and wearing the field jacket with his 1505 uniform on 24 Jan 74.

j. On 6 Feb 74 he received an LOR when he was apprehended in a restricted area in front of a Transit Alert.

k. On 26 Feb 74, a Disciplinary Punishment letter indicates the applicant received NJP, Article 15 for shoplifting at the base exchange. He received a reduction in grade to airman, and forfeiture of \$50.00 for one month, but the execution of the reduction to airman was suspended until 15 August 1974.

l. On 21 Mar 74, a Vacation of Suspension letter indicates his suspension was vacated due to misconduct, and he was reduced to airman.

On 13 Feb 74, a Mental Health Evaluation letter recommended administrative discharge under the auspices of AFM 39-12, for character and behavior disorder; to wit, immature personality.

On 15 Mar 74, a legal review, provided by the applicant, found the discharge action legally sufficient.

On 22 Mar 74, the applicant received a general (under honorable conditions) discharge. He was credited with 1 year, 5 months, and 20 days of total active service.

On 8 Jul 75, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 8 Aug 75, the AFDRB concluded his request to re-enlist was denied and that a change in the type or nature of his discharge was not warranted. His case was then dispatched to the Air Force Board for Correction of Military Records (AFBCMR) for further consideration. Also, his re-enlistment (RE) Code and Separation Program Designator (SPD) numbers were removed from his copy of the DD Form 214 as requested.

On 17 Oct 75, the AFBCMR considered the application and determined no corrective action was indicated in his case.

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

POST-SERVICE INFORMATION

On 12 Dec 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's counsel replied on 17 Dec 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 3 Sep 14, the Secretary of Defense issued a memorandum providing guidance to the Military Department Boards for Correction of Military/Naval Records as they carefully consider each petition regarding discharge upgrade requests by veterans claiming PTSD. In addition, time limits to reconsider decisions will be liberally waived for applications covered by this guidance.

On 25 Aug 17, the Under Secretary of Defense for Personnel and Readiness (USD P&R) issued clarifying guidance to Discharge Review Boards and Boards for Correction of Military/Naval Records considering requests by veterans for modification of their discharges due in whole or in part to mental health conditions [PTSD, Traumatic Brain Injury (TBI), sexual assault, or sexual harassment]. Liberal consideration will be given to veterans petitioning for discharge relief when the application for relief is based in whole or in part on the aforementioned conditions.

Under Consideration of Mitigating Factors, it is noted that PTSD is not a likely cause of premeditated misconduct. Correction Boards will exercise caution in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with the aforementioned mental health conditions and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

Boards are directed to consider the following main questions when assessing requests due to mental health conditions including PTSD, TBI, sexual assault, or sexual harassment:

- a. Did the veteran have a condition or experience that may excuse or mitigate the discharge?
- b. Did that condition exist/experience occur during military service?
- c. Does that condition or experience actually excuse or mitigate the discharge?
- d. Does that condition or experience outweigh the discharge?

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 12 Dec 24, the Board staff provided the applicant a copy of the liberal consideration 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 not timely filed but the untimeliness is waived because it is in the interest of justice to do so. 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 the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on fundamental fairness. The Board contemplated the many principles included in the Wilkie Memo 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, his character and reputation, service to the community, job history and degree of contrition. Specifically, the Board finds his misconduct was not of an egregious nature and was minor and he provided an FBI report indicating he has had no criminal activity. Coupled with his post-service evidence to include numerous character reference letters highlighting his volunteer work in his community, his mentorship, his success in his professional career, and his integrity, honor, and leadership skills, the Board finds the evidence sufficient to warrant a discharge upgrade and recommends the applicant's records be corrected as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 22 Mar 74, he was discharged with service characterized as honorable and a separation code and corresponding narrative reason for separation of JFF (Secretarial Authority).

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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-2024-00259 in Executive Session on 16 Apr 25:

- 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 18 Jan 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clarifying Guidance), dated 12 Dec 24.
- Exhibit D: Applicant’s Response, w/atchs, dated 17 Dec 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.

4/30/2025

X **Work-Product**

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 Board Operations Manager, AFBCMR
 Signed by: USAF