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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01631

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COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He would like to have his discharge upgraded and veterans benefits activated as he feels his discharge was handled hastily and in a pressured manner and it was unfair to be discharged under the two-year mark of his term of enlistment. He proudly served without incident and the cause of his discharge was led by riding in a fellow airman's pickup truck bed and was postured as riding in a vehicle without a seatbelt and was demoted and pressured to hastily be discharged. He never got around to correcting the matter, but as he has gotten older, he feels it is more important to him and his family for this to be corrected. He is not looking for anything else besides a fair correction to honorable and veteran identification and recognition with the benefits that follow.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 13 Nov 90, 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 9 Aug 89, a Letter of Reprimand (LOR) was issued for operating a motor vehicle on base while his driving privileges had been revoked on or about 24 Jul 89.
- b. On 19 Apr 90, an LOR was issued for operating a motor vehicle with suspended registration and no insurance on 13 Jan 90.

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c. On 10 May 90, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for failing to obey a lawful order to not drive a motor vehicle on [Work-Product] Air Force Base (AFB) on or about 30 Apr 90. The applicant received forfeiture of \$100.00 pay per month for 2 months and 15 days extra duty.

d. On 8 Aug 90, an LOR was issued for writing a bad check to the base exchange in the amount of \$150.00 on or about 22 Jun 90.

e. On 18 Sep 90, an LOR was issued for writing bad checks to a pizza company in the amounts of \$7.50 and \$9.65 on 10 and 28 Aug 90 respectively.

f. On 7 Nov 90, an AF Form 3070 indicates the applicant receive NJP, Article 15 for failing to go at the time prescribed to his appointed place of duty without authority on or about 15 Oct 90 and on or about 17 Oct 90. The applicant received a reduction to the grade of airman (E-2) and 15 days extra duty.

On 21 Nov 90, the Staff Judge Advocate found the discharge action legally sufficient.

On 23 Nov 90, 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 27 Nov 90, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Misconduct – Pattern of Minor Disciplinary Infractions” and he was credited with 1 year, 11 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 2 Aug 24, the Board sent the applicant a standard request for post-service information. This letter informed the applicant that a Federal Bureau of Investigation (FBI) background check would assist the Board in evaluating his case. Although the applicant did reply to the request for post-service information (Exhibit D), his response did not include an FBI background check or other criminal history data. However, the applicant did provide a letter from an employer indicating he has a valid active Top Secret/SCI clearance as of 7 Aug 24.

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 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 not the victim of an error or injustice. The Board finds his 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. Nonetheless, 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 Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness; however, the applicant did not provide sufficient evidence to show he has made a successful post-service transition. The Board noted the evidence the applicant provided from his employer, indicating he currently holds a security clearance, however, it was not sufficient to demonstrate his character, remorse for his actions, or service to the community. Therefore, the Board recommends against correcting the applicant's records. The applicant retains the right to request reconsideration of this decision, which could be in the form of a personal statement, character statements, or testimonials from

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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.

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-2024-01631 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, dated 16 Apr 24.

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

Exhibit C: Letter, SAF/MRBC, w/atchs (FBI Required w/ info bulletin / Clemency Guidance), dated 2 Aug 24.

Exhibit D: Applicant's Response, dated 21 Aug 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.

4/29/2025

X

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Board Operations Manager, AFBCMR

Signed by: USAF

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