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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01658

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COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His separation program designator (SPD) code changed.
2. His reenlistment (RE) code changed.

APPLICANT'S CONTENTIONS

He has successfully acquired his bachelor's and master's degrees and is wanting to join the Navy Reserves as an officer to continue to serve his country. After finding out he could not rejoin the Air Force, he spoke to a Navy reservist who was confident he could join, however, after speaking with a Navy Reserve recruiter, he was informed he could not join with this RE code. He would like to change the RE code in order to join the Navy Reserve.

In support of his request for an RE code upgrade, the applicant provides a college transcript, graduation certificates, and other documents related to his request.

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 Feb 13, the AF Form 418, *Selective Reenlistment Program (SRP) Consideration for Airmen in the Regular Air Force/Air Force Reserve*, indicates the applicant's commander determined he was non-selected for reenlistment due to being arrested for driving under the influence of alcohol.

On 31 May 13, the applicant received an honorable discharge. His narrative reason for separation is "Non-Retention on Active Duty" and he was credited with four years and eight months of total active service. His RE code is "2X" which denotes airman non-selected for reenlistment or airman in the non-commissioned office (NCO) Career Status Program non-selected for continued service.

On 31 Jan 19, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to the reenlistment code.

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On 2 Jun 20, the AFDRB concluded the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and the applicant was provided full administrative due process. It found the seriousness of the applicant's willful misconduct offset the positive aspects of his service.

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

POST-SERVICE INFORMATION

On 13 Dec 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); however, he has not replied.

APPLICABLE AUTHORITY/GUIDANCE

On 25 Jul 18, the Under Secretary of Defense issued supplemental guidance 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 the supplemental guidance, paragraphs 6 and 7.

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the application finding no error or injustice with the discharge processing. The applicant was discharged under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, for non-retention on active duty. Enlisted airmen are allowed to remain on active duty if recommended for reenlistment by their commander. The applicant was not selected for retention by his commander. The SPD code for airmen who are not recommended for further retention is "JGH". This SPD code is correctly reflected on the applicant's DD Form 214 as a result of not being selected for further retention.

AFPC/DPMSSM recommends denying the application finding no evidence of an error or injustice of the denial of reenlistment. The applicant was non-selected for reenlistment eligibility by his commander and the applicant acknowledged his non-selection for reenlistment and rendered his intent to appeal the non-selection on 22 Feb 13. On 5 Mar 13 it was annotated in Section VI, *Military Personnel Section (MPS) Action*), the applicant failed to turn in an appeal request.

The complete advisory opinions are at Exhibit C and D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 30 Oct 24 for comment (Exhibit E) 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 finds his non-recommendation for retention was consistent with the substantive requirements of the regulation and was within the commander's discretion. Furthermore, the Board concurs with the rationale and recommendations of AFPC/DPMSSR and AFPC/DPMSSM and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant has provided no evidence which would lead the Board to believe his RE code and SPD code were contrary to the provisions of the governing regulation at the time of his separation. The Board understands the applicant's desire to reenter service; however, the RE code annotated on his DD Form 214 represents the situation in which he was separated and is not subject to change unless an error was made in the original annotation. 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 failed to provide an FBI criminal history report and evidence that demonstrates his character and reputation. 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 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.
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

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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-2024-01658 in Executive Session on 6 Feb 25:

Work-Product, Panel Chair, AFBCMR

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 9 May 24.

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

Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 22 Oct 24.

Exhibit D: Advisory Opinion, AFPC/DPMSSM, dated 25 Oct 24.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Oct 24.

Exhibit F: Letter, SAF/MRBC, w/atchs (Post-Service Request and Liberal Consideration Guidance), dated 13 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.

10/17/2025

X

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GS-15, DAF

Associate Director, AFBCMR

Signed by: USAF

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