



*Work-Product*

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-01800

*Work-Product*

**COUNSEL:** *Work-Product*

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His uncharacterized dismissal from the service be upgraded to honorable or general (under honorable conditions).

**APPLICANT'S CONTENTIONS**

He asks for relief under the Wilkie Memorandum granting clemency. His crime was not violent in nature. His dismissal as an Air Force officer was overly severe given the circumstances as his years of honorable service were not considered prior to his conviction. The applicant served honorably as an enlisted member in the Army before he obtained his commission. During his military career, he performed admirably in his career and received numerous awards.

The applicant's charges originated from a loan application for an investment property; however, the loan type required the loan to be used as his primary residence. The applicant pled guilty to this charge at his court-martial hearing. His actions are regrettable, however, his dismissal for this charge was disproportionate to his years of honorable service. His time as a logistician recovered millions in dollars for the United States Military, and as an investigator, saving countless lives from drugs and other abuse. Due to the investigation into the fraudulent loan application, a discovery was made he unlawfully used background investigation software. He understands his use of the software for personal reasons was wrong; however, he received information his child was staying at a residence with a known sex offender, and he used the software to verify the information. His intentions were not malicious as he was solely looking out for his family.

The applicant continued his education and was awarded his Doctor of Criminal Justice. The character references he provides outline the impact he has had on others and his community throughout his years in and post-service, touting his character, leadership skills, mentorship, and work ethic. He was a remarkable soldier and airman who dedicated nearly two decades to the service of his country, including multiple deployments. He has accepted responsibility for his actions and made a career out of helping others.

In support of his request for a discharge upgrade, the applicant provides copies of military kudos, his college transcripts outlining his undergraduate, graduate, and doctoral degrees, character

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Controlled by: SAE/MRB  
CUI Categories: *Work-Product*  
Limited Dissemination Control: N/A  
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reference statements, teacher of the year award, 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 major (O-4).

On 12 Dec 18, the convening authority published General Court-Martial Order (GCMO) number [Work...]. The Order stated the applicant pled guilty and was found guilty of one charge and one specification of willfully refraining from using "the Last One" for personal use by running background checks for personal use between on or about 5 Nov 15 and 2 Nov 16 (Article 92); of one charge and two specifications of sending threatening communications and falsifying a cease and desist order on or about 15 Aug 16 (Article 133); of one charge and three specifications of making false statements pertaining to a loan application on or about 3 Aug 15, 7 Aug 15, 31 Mar 16, 11 May 16, 15 Jul 16, and 1 Sep 16 (Article 134). The applicant was sentenced to a dismissal from the service.

On 24 Mar 23, the convening authority published GCMO number [Wo...]. The Order stated the sentence as promulgated in SCMO number [Wo...] was affirmed with the dismissal being executed.

On 13 Apr 23, the applicant received a dismissal from the service with a "Not Applicable" character of service. His narrative reason for separation is "Court-Martial (Other)" and he was credited with 16 years, 10 months, and 10 days of total active service.

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

## POST-SERVICE INFORMATION

On 13 Jan 25, 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 24 Jan 25 and provided an FBI report. According to the report, the applicant has had no arrests since discharge. In his original submission and in his response to the advisory opinion, the applicant also provided a personal statement, character reference statements, service and post-service awards and achievements and his college transcripts.

The applicant's complete response is at Exhibits A, D, and G.

## 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 13 Jan 25, the Board staff provided the applicant a copy of the clarifying 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.

**Under Other than Honorable Conditions.** This characterization is used when basing the reason for separation on a pattern of behavior or one or more acts or omissions that constitute a significant departure from the conduct expected of members. The member must have an opportunity for a hearing by an administrative discharge board or request discharge in lieu of trial by court-martial. Examples of such behavior, acts, or omissions include but are not limited to:

## AIR FORCE EVALUATION

AF/JAJI finds no evidence warranting clemency from a legal perspective. The applicant had meritorious service prior to his court-martial. It appeared his career was on an upward trajectory at the time he committed the misconduct for which he was convicted. The AFBCMR always has the authority to grant clemency in the form of a discharge upgrade.

The applicant has the burden of providing evidence in support of their allegations of an error or injustice, per DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, and the AFBCMR is bound to draw every reasonable inference from the evidence in favor of the principals who resolved questions of fact and took the actions at issue. Deference is not blind as the AFBCMR can reverse an arbitrary or capricious decision for an abuse of discretion. *Roberts v.*

*United States*, 741 F.3d 152, 158 (D.C. Cir. 2014). The applicant's request for a discharge upgrade pertains to records resulting from a court-martial conviction and a dismissal. The AFBCMR and the Secretary of the Air Force (SAF) have limited authority to correct court-martial records. Under 10 U.S.C. Section 1552(f), the AFBCMR may extend its authority to correct a record to reflect an action taken by review authorities under the Uniform Code of Military Justice (UCMJ) or take action on the sentence of a court-martial for purposes of clemency. The applicant does not request correction of a record to reflect an action taken by review authorities. Therefore, clemency on the applicant's sentence is the only option available for consideration.

In accordance with the Wilkie Memo, when determining whether to grant relief on the basis of clemency, BCMRs should consider a variety of factors to include character references, evidence of rehabilitation, severity of misconduct, the applicant's meritorious service, character, and reputation. Of note in this case, the AFBCMR should also consider the applicant's candor, and whether the punishment, including any collateral damages, was too harsh. The applicant's claim, all charges originated with his fraudulent loan application and he used the background software to check whether his child was staying at a residence with a known sex offender may be true. However, it is clear the applicant also used the software for malicious purposes, to find personal information to use in threatening emails. The victim reported the suspected identity breach to both the DOD Inspector General (IG) and the FBI; it is just as likely that this was the origin of charges. Regardless, the fact that the applicant makes it appear as the data breach was only done for the safety of his family and specifically excludes any information about his interaction with the victim, calls into question his candor. Additionally, the applicant pled guilty by a pre-trial agreement and he was able to negotiate sentence limitations and was aware of the maximum punishment he could receive prior to the court-martial. The applicant only received a dismissal. Not only is this well below the maximum sentence for his offenses, but the applicant already agreed it was appropriate for his crimes.

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 1 Jul 25 for comment (Exhibit F), and the applicant replied on 23 Jul 25. In his response, the applicant contends, through counsel, he acknowledges he did not provide a further explanation regarding the data breach. The victim did not take their break-up well and caused trouble. In a regrettable moment of frustration and poor judgement, he accessed the victim's personal information hoping to dissuade her from further contact with him. His intent was never to cause harm but find a way to end communications, especially given her profession as an attorney. While the decision to abuse the software was inappropriate, these mitigating factors were not admissible in court. He deeply regrets the action he took and the harm it may have caused. Pre-trial settlement was reached which avoided a more severe punishment but this is but one of many factors the Board must consider when making clemency decisions. The applicant has a successful career in education and has proven himself to be a valuable asset to his local community, even being nominated for the 2023 **Work-Product** Award. He continues to provide mentorship and service in disadvantaged inner-city schools where he has been promoted to vice-principle.

The applicant’s complete response is at Exhibit G.

**FINDINGS AND CONCLUSION**

1. The application was timely filed.
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. Based on the available evidence of record, the Board finds the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander’s discretion. The applicant has provided no evidence that 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. Furthermore, the Board agrees with the rationale and recommendation of AF/JAJI and finds the applicant was given a lesser punishment below the maximum sentence for his misconduct and was therefore already afforded leniency. Nonetheless, in the interest of justice, the Board considered upgrading the applicant’s discharge. In support of his request for an upgrade, the applicant provided a personal statement, character reference statements, service and post-service awards and achievements and his college transcripts. He also contends he has had a successful career in education and has proven himself to be a valuable asset to his local community. The Board contemplated the many principles included in the Wilkie Memo to determine whether to grant relief based on an injustice or fundamental fairness and 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. However, the applicant was just recently discharged, and the Board finds his short post-service accomplishments do not outweigh the seriousness of his misconduct; therefore, the Board determined relief is not warranted and recommends against correcting the applicant’s record.

**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-2024-01800 in Executive Session on 20 Nov 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 15 May 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Clemency Guidance), dated 13 Jan 25.
- Exhibit D: FBI Report, dated, 24 Jan 25.
- Exhibit E: Advisory Opinion, AF/JAJI, dated 12 Feb 25.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Jul 25.
- Exhibit G: Applicant's Response, w/atchs, dated 23 Jul 25.

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.

1/4/2026

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF