



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02035

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He was discharged for financial mismanagement, and he does not dispute this. However, his finances were a direct result of alcoholism which was diagnosed by the Air Force. Further, his misconduct was not a part of a pattern of behavior. He was awarded the good conduct medal and airman of the quarter at base level the previous year. After receiving an Article 15 for financial mismanagement, he requested a discharge so he could get his finances in order. He was at a level of debt, he could not pay his bills after being demoted. Had he not requested the discharge, he would have gotten into more trouble for not keeping up with his debts. The discharge was not the result of the Article 15, the punishment in which he was reduced in grade. His performance report ratings were fours and fives, demonstrating there was not a pattern of misconduct.

While he is ashamed of the mistakes he made at this point in his life, he does not feel this should be a mark on him for the rest of his life. He is proud of his service but does regret the conduct which led to his discharge. He did not learn until today the Department of the Air Force Instruction (DAFI) 36-3211, *Military Separations*, calls for a pattern of behavior to be established before discharge is considered. Knowing this, and the attorney he was provided during the Article 15 stated he should have been eligible for a hardship discharge, he is requesting the discharge be upgraded to honorable.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

[REDACTED]

On 23 Feb 98, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49 for minor disciplinary infractions. The specific reasons for the action were:

- a. On 23 Jan 98, an AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant receive nonjudicial punishment (NJP), Article 15 for uttering checks for payment of money, of a total amount of \$538.85 and dishonorably failed to maintain sufficient funds in the bank for payment of said checks in full upon being presented on divers occasions between on or about 26 Oct 97 and on or about 18 Nov 97. The applicant received a reduction to the grade of airman (E-2), forfeiture of \$519.00 pay per month for two months, suspended, and a reprimand.

Additionally, according to the legal review, he damaged a privately owned car by failing to use a spotter when backing a government vehicle.

On 25 Feb 98, the Staff Judge Advocate found the discharge action legally sufficient. On the same date, the discharge authority directed the applicant be discharged for minor disciplinary infractions, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 24 Mar 98, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with 3 years, 3 months, and 11 days of total active service.

On 7 Feb 00, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge. The applicant felt the discharge was inequitable because it was an isolated incident; the character did not reflect his whole term of service; the Article 15 he received was not rehabilitative; he felt he would be an asset to Air Force Reserves (AFR) or Air National Guard (ANG); and believed a hardship discharge would have been more appropriate.

On 24 Mar 00, 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. The board indicated his conduct was a significant departure of what was expected of all military members. It also indicated there was insufficient evidence to overcome the presumption of regularity when it came to the reason and character of discharge received. The board concluded there was no impropriety or inequity in the discharge process which would warrant an upgrade.

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

POST-SERVICE INFORMATION

[REDACTED]

On 31 Jul 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 replied on 23 Aug 24 and provided an FBI report. According to the report, the applicant was arrested on 6 Oct 98 for theft under \$300.00. The applicant also provided a personal statement, a character statement, and military kudos.

The applicant's complete response is at Exhibit D.

APPLICABLE AUTHORITY/GUIDANCE

Applicants requesting separation based on dependency or hardship must follow the strict guidelines set forth in AFI 36-3208, Section 3C, *Dependency or Hardship*, which states airmen may request discharge when genuine dependency or undue hardship exists. The basis for discharge may exist when: (1) the dependency or hardship is not temporary; (2) conditions have arisen or have been aggravated to an excessive degree since the airman entered active duty; (3) the airman has made every reasonable effort to remedy the situation; (4) separation will eliminate or materially alleviate the conditions; and (5) there are no means of alleviation readily available other than the separation. Undue hardship or dependency does not necessarily exist because of altered present or expected income or the family is separated or must suffer the inconvenience usually incident to military service. Applicants submitting dependency or hardship separation requests under this authority must submit a thorough explanation as to the circumstances causing the hardship along with extensive supporting documentation. If the application is based on a condition that is basically a financial hardship, there must be evidence of prospective civilian employment with income that would exceed the member's military pay.

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 31 Jul 24, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit C).

DAFI 36-3211, 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.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence has been presented to support the applicant's request for an upgrade to his discharge based on his mental health condition. After a review of the available records the Psychological Advisor finds, although his service treatment records are not available for review, there is evidence he was diagnosed with alcohol dependent

[REDACTED]

by a competent medical authority during service. Thus, his contention he had an alcohol problem during service was substantiated by his military records. He was decertified from the personnel reliability program (PRP) on 3 Dec 95 by his commander because of this diagnosis, indicating his alcohol issues had impacted his ability to perform his PRP duties. While it is convincing the applicant's financial problems of issuing numerous checks with insufficient funds were caused by his drinking problems as he contended, his alcohol dependency problem is considered as an unsuiting condition for military service. His unsuiting mental health condition of an alcohol dependency problem may explain his misconduct/financial problems but does not excuse or mitigate his misconduct. In addition to his financial problems, he was also discharged for damaging a privately owned vehicle by failing to use a spotter when backing a government vehicle. There is no evidence his alcohol problem caused this misconduct. There is no evidence he had any other mental health conditions such as anxiety, depression, trauma, psychosis, etc. caused by his military service or he used alcohol to cope with having these types of mental health conditions. Besides alcohol problems, there is no evidence he had any other mental health condition or was in emotional distress impairing his judgment at the time of any of his misconduct resulting in his discharge from service. Therefore, and based on a thorough review of his available records, the Psychological Advisor finds no error or injustice with his discharge from a mental health perspective, and his request for an upgrade of his discharge based on his mental health condition is not supported.

LIBERAL CONSIDERATION: Liberal consideration is applied to the applicant's request due to his contention of having alcohol issues during service. It is reminded liberal consideration does not mandate an upgrade or a change to the records per policy guidance. The following are responses to the four questions from the Kurta Memorandum from the information presented in his records for review:

1. Did the veteran have a condition or experience that may excuse or mitigate the discharge?

The applicant contended he had a drinking problem which caused his financial problems during service. He was able to get help for his drinking problem during service and completed a treatment program, but by the time he sought help, he was unable to remedy his financial issues. He said his financial problems from his alcohol problem resulted in an Article 15 which led to his discharge from service.

2. Did the condition exist or experience occur during military service?

The applicant's service treatment records are not available for review, but there is evidence he was diagnosed with alcohol dependent by a competent medical authority during service. He was decertified from PRP on 3 Dec 95 by his commander because of this diagnosis indicating his alcohol issues had impacted his ability to perform his PRP duties. There is no evidence or records he had any other mental health conditions such as anxiety, depression, trauma, psychosis, etc. during service.

3. Does the condition or experience actually excuse or mitigate the discharge?

While it is compelling the applicant's alcohol dependency problem caused his financial problems, his alcohol dependency problem does not excuse or mitigate this misconduct. This is an unsuiting

[REDACTED]

mental health condition for continued military service. There is no evidence he used alcohol to cope with having a mental health condition like anxiety, depression, trauma, psychosis, etc. caused by his military service. He was also discharged for damaging a privately owned vehicle by failing to use a spotter when backing a government vehicle. There is no evidence his alcohol problem or any other mental health condition caused this misconduct. There is no evidence he was in emotional distress, impairing his judgment causing any of his misconduct resulting in his discharge from service. Therefore, his mental health condition does not excuse or mitigate his discharge.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate his discharge, his condition also does not outweigh his original discharge.

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 8 Jan 25 for comment (Exhibit F) and the applicant replied on 10 Jan 25. In his response, the applicant explained the circumstances of his separation. He reiterated he requested a discharge because after being demoted, he was not able to pay down his past debts which were owed. The applicant acknowledged the alcohol did not force him to write bad checks or fail to ask for help. It was a contributing factor, but the totality of the circumstances was caused by a series of poor decisions.

The applicant's complete response is at Exhibit F.

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 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 concurs with the rationale and recommendation of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board applied liberal consideration to the evidence submitted by the applicant; however, it is not sufficient to grant the applicant's request. While it is compelling his struggles with alcohol may have contributed to his financial issues, this condition does not excuse or mitigate his misconduct and discharge. There is no evidence he used alcohol to cope with a mental health condition, nor was he in emotional distress, impairing his judgment causing any of his misconduct resulting in his discharge from service. Therefore, his contended mental health condition does not

[REDACTED]

excuse or mitigate his discharge. Additionally, 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. He was discharged for issuing numerous checks with insufficient funds which the Board considers a pattern of behavior. Furthermore, the applicant's contention he should have received a hardship discharge would not have been appropriate in accordance with the regulations at the time as he would not have qualified. His financial hardship was brought on by his own behavior, was considered temporary, and was within his ability to remedy. 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 evidence he provides lacks references that demonstrate his character and 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 character statements, and/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.

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-2024-02035 in Executive Session on 21 May 25:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 5 Jun 24.
- 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 31 Jul 24.
- Exhibit D: FBI Report, dated, 23 Aug 24.

[REDACTED]

Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 8 Jan 25.
Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Jan 25.
Exhibit G: Applicant's Response, dated 10 Jan 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.

6/4/2025

X [REDACTED]

[REDACTED]
Board Operations Manager
Signed by: USAF