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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02386

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His general (under honorable conditions) discharge be upgraded to honorable.
2. His grade of airman first class (E-3) be restored.

APPLICANT'S CONTENTIONS

He reported a supervisor for making racial comments about him to another airman. As soon as he reported this, he was targeted for disciplinary actions and received an Article 15 and a reduction in grade. He was offered an early out so he could not take his complaint higher. For the past 10 years, he has been a federal employee.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 31 Jan 97, 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 25 Sep 96, AF Form 174, *Record of Individual Counseling*, indicates the applicant was counseled for being late for duty.
- b. On 13 Nov 96, AF Form 174 indicates the applicant was counseled for being late for duty.
- c. On 20 Nov 96, a Letter of Reprimand (LOR) was issued for failing to report to mandatory roll call.

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d. On 8 Jan 97, a LOR was issued for failing to report to mandatory roll call and failing to report for recurring weapons training.

e. On 27 Jan 97, AF Form 3070, *Record of Nonjudicial Punishment Proceedings*, indicates the applicant received nonjudicial punishment (NJP), Article 15 for failing to report for duty on or about 9 Jan 97. He received a reduction in grade to airman (E-2) with a new date of rank of 27 Jan 97.

Document not dated, the Staff Judge Advocate found the discharge action legally sufficient.

Document not dated, the discharge authority directed the applicant be discharged due to his repeated and flagrant behavior, with a general service characterization. Probation and rehabilitation were considered but not offered.

On 7 Feb 97, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct" and he was credited with one year, six months, and six days of total active service.

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

POST-SERVICE INFORMATION

On 29 Apr 25 and 24 Jun 25, 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 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 29 Apr 25 and 24 Jun 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.

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 notes the applicant's contention he was targeted and issued an Article 15 after he reported the incident involving racial comments; however, evidence shows he was issued the Article 15 for failing to report for duty of which he was counseled on numerous occasions before this incident. The NJP he received was a reduction in grade to which the Board finds was not unduly harsh, or disproportionate to the offenses committed. Furthermore, it appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion and the applicant provided no evidence which would lead the Board to believe his service characterization was contrary to the provisions of the governing regulation. Nonetheless, in the interest of justice, the Board considered upgrading the applicant's discharge. 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, given the evidence presented, and in the absence of post-service information and a criminal history report, the Board finds no basis to do so. Therefore, the Board recommends against correcting the applicant's record. The applicant retains the right to request reconsideration of this decision. The applicant may provide post-service evidence depicting his current moral character, occupational, and social advances, in the consideration for an upgrade of discharge characterization due to clemency based on fundamental fairness.

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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

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-2024-02386 in Executive Session on 24 Jul 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/atch, dated 3 Jul 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 24 Jun 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.

9/18/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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