

Atto...



Atto... Attorney-Client

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02496

Attorney-Client

COUNSEL: Attorney-Client

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He is requesting an upgrade based on the circumstances surrounding his discharge and his post-service achievements and character, as detailed in his personal statement and supporting documents. During service, he acted under emotional distress caused by false allegations of his then spouse. After discharge, he discovered the truth and they divorced. Since then, he earned a doctorate's degree, contributed significantly to the National Aeronautics and Space Administration (NASA) and the Department of Defense (DoD). He received over 45 awards and holds 12 patents. This upgrade would correct his record and reflect his true character and contributions.

In support of his request for a discharge upgrade, the applicant provides a personal statement, his resume, character reference statements and numerous post-service certificates and awards.

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 9 Aug 84, 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 5-26.1, for unsatisfactory duty performance. The specific reasons for the action were:

- a. On 16 Mar 84, he received a letter of counseling (LOC) for unsatisfactory duty performance.
- b. On 20 Mar 84, he received an LOC for unsatisfactory duty performance.

AFBCMR Docket Number BC-2024-02496

Attorney-Client

Attorney-Client

Atto...

- c. On 27 Mar 84, his “K” stamp was withdrawn, restricting him from certifying equipment.
- d. On 11 Jul 84, a Letter of Evaluation (LOE) was issued for unsatisfactory duty performance.
- e. On 20 Jul 84, an LOE was issued for unsatisfactory duty performance.
- f. On 20 Jul 84, he received a second LOE on this date for unsatisfactory duty performance.
- g. On 20 Jul 84, he received a third LOE for unsatisfactory duty performance.
- h. On 21 Jul 84, an LOE was issued for unsatisfactory duty performance.
- i. On 21 Jul 84, a second LOE on this date was issued for unsatisfactory duty performance.

On 20 Aug 84, the Staff Judge Advocate found the discharge action legally sufficient.

On 22 Aug 84, the discharge authority directed the applicant be discharged for unsatisfactory duty performance, with a general (under honorable conditions) service characterization. Probation and rehabilitation were considered but not offered.

On 24 Aug 84, the applicant received a general (under honorable conditions) discharge. His narrative reason for separation is “Unsatisfactory Performance” and he was credited with 1 year, 10 months, and 28 days of total active service.

On 17 Jan 91, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 25 Feb 92, 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 applicant did not submit issues contending impropriety or inequity, and after a thorough review of the record, the board was not able to identify any impropriety or inequity in the discharge process.

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

POST-SERVICE INFORMATION

On 5 Feb 25, the Board staff sent the applicant an email, requesting post-service information and advised he could 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. The

applicant provided an FBI report dated 26 Feb 25. According to the report, the applicant has had no arrests since his discharge. He provides a personal statement, resume, certificates of achievement, character statements, a letter from his supervisor and other documents.

The applicant states at the time of his service, he received devastating news from his then wife who was stationed overseas that she had been raped. He endured psychological and emotional stress which affected his judgment and decision making. His emotional state impacted his ability to perform his duties and interact with his peers and superiors. He later learned her claims were false and they divorced. Had he been better able to manage his emotional well-being, his performance and relationships would have been more aligned with the dedication and success he has demonstrated throughout his post-service career.

Despite his discharge and setback, he dedicated his life to advancing in his professional career and contributing to significant technological and scientific achievements. He completed his bachelor's master's and doctorate's degrees in electrical engineering. He had a distinguished 30 year career at NASA, served as an adjunct professor at two universities, received 45 peer selected awards, holds 12 patents, published over 15 peer review articles and other accomplishments. He has held positions of significant responsibility and trust and maintains an active secret security clearance. He also obtained his private pilot's license.

An honorable discharge would not only correct the record regarding the circumstances of his discharge but also reflect the dedication and integrity he has demonstrated in his personal life.

The applicant's complete response is at Exhibit D.

APPLICABLE AUTHORITY/GUIDANCE

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 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 10 Apr 25, the Board staff provided the applicant a copy of the liberal consideration guidance (Exhibit G).

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.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence has been presented to support the applicant's request for an upgrade of his discharge from a psychological perspective. While the applicant contends he suffered from emotional distress during service, there is no evidence he had

any mental health conditions or symptoms while in service. The applicant underwent a comprehensive psychological evaluation on 25 and 26 Apr 84 and was determined not to have any mental health condition. The applicant denied any mental health symptoms on his report of medical history at separation. The medical examiner noted at separation he did not have any psychiatric symptoms (normal). The Psychological Advisor concludes the applicant does not have any mental health condition which would mitigate or excuse his unsatisfactory performance. A review of his military record documents many instances of unsatisfactory performance over several months of his career. His reasons for his unsatisfactory performance appeared not to have involved any mental health issue, nor did he mention having any difficulties with his wife.

Liberal consideration is applied to the applicant's petition due to the contention of a mental health condition. The following are responses to the four questions from the Kurta Memo based on information presented in the records:

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

The applicant contends he suffered from emotional distress.

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

There is no evidence he had any mental health condition or symptoms while serving in the military. The applicant is not currently service-connected for any mental health condition.

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

While the applicant contends he suffered from emotional distress while in service, there is no evidence he had any mental health condition or symptoms while serving in the military. The applicant underwent a comprehensive psychological evaluation on 25 and 26 Apr 84 and was determined not to have any mental health condition. The applicant denied any mental health symptoms on his report of medical history at separation. The medical examiner noted at separation he did not have any psychiatric symptoms (normal). The Psychological Advisor concludes the applicant does not have any mental health condition which would mitigate or excuse his unsatisfactory performance.

4. Does the condition or experience outweigh the discharge?

Since the applicant's mental health condition does not excuse or mitigate the discharge, the applicant's condition also does not outweigh the 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 10 Apr 25 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed. 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 the victim of an injustice. While the Board finds no error in the original discharge process and finds insufficient evidence to warrant upgrade on the basis of liberal consideration, the Board recommends relief based on fundamental fairness. The Wilkie Memo instructs the Board to favor second chances in situations in which individuals have paid for their misdeeds and to consider the severity of the misconduct, length of time since discharge and the character and reputation of the applicant. The applicant presented an FBI history report showing no criminal arrests for over 40 years since his discharge. The applicant earned a doctorate degree, he was employed by NASA for over 30 years, served as an adjunct professor at two universities and made significant contributions to his community. Given the evidence presented, his significant post-service accomplishments and the passage of time (more than 40 years since his discharge), the Board recommends the applicant's general discharge be upgraded to honorable and his narrative reason for separation reflect "Secretarial Authority." Therefore, the Board recommends the applicant's records be corrected as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show on 24 Aug 84, he was discharged with service characterized as honorable, and a separation code and corresponding narrative reason for separation of JFF (Secretarial Authority).

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-2024-02496 in Executive Session on 26 Jun 25:

Attorney-Client, Panel Chair
 Attorney-Client, Panel Member
 Attorney-Client, Panel Member

All members voted to correct the record. The panel considered the following:

AFBCMR Docket Number BC-2024-02496

Atto...

Atto... Attorney-Client

- Exhibit A: Application, DD Form 149, w/atchs, dated 7 Jun 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Info Bulletin (Clemency/Fundamental Fairness Guidance), dated 5 Feb 25
- Exhibit D: FBI Report w/atchs, 27 Feb 25.
- Exhibit E: Advisory Opinion, AFRBA Psychological Advisor, dated 8 Apr 25.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 10 Apr 25.
- Exhibit G: Letter, SAF/MRBC, (Liberal Consideration), 10 Apr 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.

8/21/2025

X [Redacted] Attorney-Client

Attorney-Client

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-02496

Atto... Attorney-Client

Atto...