
RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03938

COUNSEL: NONE

HEARING REQUESTED: YES (VTC)

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

The applicant states his discharge was not the result of alcohol or drug abuse but rather a conflict with his shop chief who sought opportunities to write up the applicant and that force shaping was a factor in his discharge. He stated he is currently working in **Work...** on a DoD contract for the Army as an inspector on aircraft, and did DoD work for the USAF in **Work-Product**.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 12 Jun 03, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Regular Air Force.

On 13 Jun 05, the applicant received an overall "3" on his AF Form 3070 *Enlisted Performance Report*, with comments from the additional rater noting "a glimpse [sic] of potential," and "member professed a desire to make the Air Force a career; continue to challenge/mentor--consider for promotion."

On 12 Jan 06, the applicant's commander imposed nonjudicial punishment under Article 15, Uniform Code of Military Justice. The specific reasons for the action were:

- a. Article 91, failure to follow a lawful order to cease using a cellular phone while performing radiation safety monitor duties, 26 Nov 05.
- b. Article 86, failure to go to a dental appointment at the time prescribed to an appointed place of duty, 8 Aug 05.
- c. Article 92, dereliction in the performance of duties for failure to turn in an old identification card after replacing it and finding the original, 9 Aug 05.

On 6 Feb 06, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant separated with general (under honorable conditions) discharge. His narrative reason for separation is "Misconduct," and he was credited with 2 years, 3 months, and 22 days of total active service.

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

POST-SERVICE INFORMATION

On 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 did not reply.

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 24 Jun 25, the Board staff provided the applicant with a copy of the clemency/fundamental fairness 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. It appears the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. 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. Nonetheless, in the interest of justice, the Board considered upgrading the discharge based on fundamental fairness; however, given the evidence presented, and in the absence of a criminal history report and other evidence showing the applicant made a successful

post-service transition, the Board finds no basis to do so. While the applicant stated at the time of his application that he was currently working overseas on a DoD contract and had done similar work in another country, he provided no documented evidence to corroborate this assertion. 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 criminal history background check, a personal statement, character statements, post-service employment documentation, 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.

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 that 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-2024-03938 in Executive Session on 15 Aug 2025:

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

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

The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 15 Oct 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Letter, SAF/MRBC, w/atchs (Post-Service Request and Fundamental Fairness and Clemency 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.

X

[REDACTED] GS-15, DAF
Associate Director, AFBCMR