



[REDACTED]

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-04126

[REDACTED]

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

His bad conduct discharge (BCD) be upgraded.

**APPLICANT'S CONTENTIONS**

He would like his discharge upgraded in order to qualify for health benefits. He currently resides at a short-term, substance and behavioral health facility and is homeless. He would like to apply for long-term care at a Department of Veterans Affairs (DVA) facility.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman basic (E-1).

On 10 Feb 81, the convening authority published General Court-Martial Order (GCMO) Number [REDACTED]. The order stated the applicant pled guilty to specifications 1 and 2, not guilty to specification 3, and was found guilty of one charge and three specifications of wrongfully distributing methamphetamine (50 milligrams and 2 grams) between on or about 9 Oct 80 and 25 Oct 80 (Article 134). The applicant was sentenced to hard labor confinement for six months, forfeiture of pay of \$335.00 for four months and discharge from the service with a BCD.

On 18 Dec 81, the convening authority published GCMO number [REDACTED]. The order stated the sentence as promulgated in GCMO number [REDACTED] was affirmed with the BCD being executed.

On 25 Dec 81, the applicant received a BCD. His narrative reason for separation is "Conviction by Court Martial-Other Than Desertion" and he was credited with 1 year and 21 days of total active service.

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[REDACTED]

Controlled by: SAF/MRB  
CUI Categories: [REDACTED]  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

[REDACTED]

Dated 24 Apr 84, it appears the applicant submitted a request to the AFBCMR for an upgrade to his discharge in 1983 ( [REDACTED] ) but no corrective action was taken. The complete case is not available.

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

### **POST-SERVICE INFORMATION**

On 2 Jul 25, the Board staff 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 2 Jul 25, the Board staff provided the applicant a copy of the liberal consideration 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:

- The use of force or violence to produce serious bodily injury or death.
- Abuse of a special position of trust.
- Disregard by a superior of customary superior - subordinate relationships.
- Acts or omissions that endanger the security of the United States.
- Acts or omissions that endanger the health and welfare of other members of the DAF.
- Deliberate acts or omissions that seriously endanger the health and safety of other persons.
- Rape, sexual assault, aggravated sexual contact, abusive sexual contact, rape of a child, sexual abuse of a child, sexual harassment, and attempts to commit these offenses.

### **AIR FORCE EVALUATION**

AF/JAJI recommends denying the application finding insufficient evidence to recommend relief on the basis of a legal error. The AFBCMR always has the authority to grant clemency in the form of a discharge upgrade; however, a review did not identify any information warranting clemency from a legal perspective. The applicant's request for a discharge upgrade pertains to records resulting from a court-martial conviction and BCD. The AFBCMR and the Secretary of the Air Force 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.

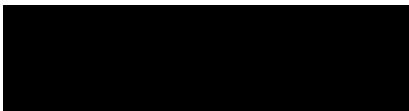
In accordance with the Wilkie Memo, when determining whether to grant relief on the basis of clemency, the AFBCMR should consider a variety of factors to include character references, evidence of rehabilitation, severity of misconduct, the applicant's meritorious service, character and reputation. The AFBCMR should consider the applicant's candor, and whether the punishment, including any collateral damages, was too harsh.

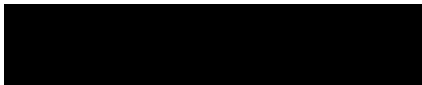
The complete advisory opinion is at Exhibit D.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 21 Jul 25 for comment (Exhibit E) but has received no response.

### **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 finds the discharge was consistent with the substantive requirements of the discharge regulation and was within the commander's discretion. Nor was the discharge unduly harsh or disproportionate to the offenses committed. Furthermore, the Board concurs with the rationale and recommendation of AF/JAJI and finds no error from a legal perspective. In the interest of justice, the Board considered upgrading the discharge and contemplated the 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 background check, the Board finds no basis to do so. The applicant was convicted of a serious offence and without evidence to show the applicant made an effort to successfully transition into civilian life or show remorse for his actions, the Board cannot recommend granting the request. 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. Therefore, the Board recommends against correcting the records.
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-2024-04126 in Executive Session on 4 Sep 25:

 Panel Chair  
 Panel Member  
 Panel Member

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

Exhibit A: Application, DD Form 149, dated 12 Nov 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 2 Jul 25.

Exhibit D: Advisory Opinion, AF/JAJI, dated 8 Jul 25.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 21 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.

10/28/2025



Board Operations Manager, AFBCMR  
Signed by: USAF

