

Application for Review of Discharge from the United States Air Force
Brief to Supplement DD Form 149, Items 6, 8, and 9

[REDACTED]

Table of Exhibits

<u>Exhibit No.</u>	<u>Description</u>
1	[REDACTED] Military Personnel File
2	Photographs of [REDACTED]
3	Affidavit of [REDACTED]
4	Letter of support from brother [REDACTED]
5	Letter of support from [REDACTED]
6	Certificate of The Air Force Achievement Medal, awarded to Senior Airman [REDACTED], 23 May 1985
7	Certificate of Marriage to [REDACTED], 30 August 1998
8	Letter of support from brother [REDACTED]
9	Certificate of Adoption and Adoption Decree with Name Change for [REDACTED] [REDACTED], 21 November 2008
10	Letter of support from employer [REDACTED]
11	Federal Bureau of Investigation (FBI) Identity History Summary
12	Massachusetts Criminal Offender Record Information
13	Letter of support from [REDACTED]
14	Letter of support from daughter [REDACTED]
15	Letter of support from father [REDACTED]
16	Letter of support from brother [REDACTED]

I. Introduction

██████████ enlisted in the Air Force in 1981 as a Medical Materiel Specialist. He served at Castle Air Force Base from August 1981 until March 1983 and received excellent evaluations. He was then transferred to Clark Air Base in the Philippines, where he served from March 1983 until March 1987. Mr. ██████████ continued to receive excellent evaluations while in the Philippines. In May 1985, he earned the Air Force Achievement Medal for “expertly administer[ing] first aid” to a seriously injured motorcyclist. He was appointed to the rank of Sergeant on 1 October 1985. Mr. ██████████ was transferred to Tinker Air Force Base in March 1987.

After six years of exemplary service, including a positive evaluation in August 1987, Mr. ██████████ began experiencing problems after arriving at Tinker AFB. He used cocaine, tested positive on a urinalysis, was convicted by special court-martial, and sentenced to a Bad Conduct discharge and three months’ confinement.

After his discharge, Mr. ██████████ returned home to Massachusetts and embarked on a 25-year-long career in trucking. In 1998 he married ██████████ and together they raised eight children. Mr. ██████████ primary reason for seeking an upgrade is to remove the shame and stigma that he experiences daily because of his discharge status. The bases for this request for relief are set forth below in greater detail.

II. Statement of Facts

a. Mr. ██████████ Childhood

Mr. ██████████ was born in Detroit, Michigan on 22 December 1960. Ex. 3 at ¶ 1. He was raised in Vicksburg, Mississippi. *Id.* at ¶ 2. His mother moved to Boston and for five years, Mr. ██████████ and his younger brother ██████████ were sent to live with their great-grandparents. *Id.* at ¶ 4. ██████████ states, “During that very difficult and pivotal time in my life, ██████████ protected me

physically and shielded my emotions. I did not know it then but [REDACTED] helped save my childhood and my innocen[ce] from harm.” Ex. 4. Mr. [REDACTED] and [REDACTED] were eventually able to join their mother in Boston. Ex. 3 at ¶ 4.

Mr. [REDACTED] father was in the Coast Guard, and instilled the value of military service in his family. *Id.* at ¶ 5. Mr. [REDACTED] brother [REDACTED] joined the Army, his brother [REDACTED] joined the Navy, and his brother [REDACTED] joined the Marine Corps. *Id.* at ¶ 6. Mr. [REDACTED] decided to join the Air Force Reserve in January 1981 before graduating from high school. *Id.* at ¶ 7. Shortly after graduation, on 17 August 1981, he entered Active Duty service in the United States Air Force. *Id.* at ¶ 8.

b. Mr. [REDACTED] Military Service

In the Air Force, Mr. [REDACTED] was a Medical Materiel Specialist. He served at Castle Air Force Base from August 1981 until March 1983 and received excellent evaluations. For example, Mr. [REDACTED] superiors noted that he had the “ability to promote a harmonious atmosphere among his co-workers [which] increased the efficiency of [his] section, thereby producing more effective medical materiel support.” Ex. 1 at 198. Additionally, Mr. [REDACTED] was “always willing to help his fellow workers and [was] well liked for his good nature and cheerful cooperativeness.” *Id.* During his time at Castle Air Force Base, he was recommended for Airman of the Month. *Id.* at 204.

He was then transferred to Clark Air Base in the Philippines, where he served from March 1983 until March 1987. Mr. [REDACTED] continued to receive excellent evaluations while in the Philippines. Mr. [REDACTED] superiors described how he greatly improved the operation of his unit during his first year in the Philippines:

During this reporting period [March 1983 to March 1984], A1C [REDACTED] was tasked to develop a coherent method of movement for items to be destroyed, turned-in to DPDO, and/or outshipments. He

responded in the following manner. Prior to his taking over, only 38% of all excess was being moved in a timely manner. In a three month period, A1C ██████ had increased the amount to 92%.

Id. at 200. Mr. ██████ positive attitude and willingness to assist others whenever needed were consistently remarked upon by his superiors. *See, e.g., id.* at 191, 195. Providing a “fine example” of this quality, one of his superiors noted that Mr. ██████ “participat[ed] in a recent linen inventory which was conducted after duty hours. His efforts contributed greatly towards a successful outcome and helped to avert a \$20,000 loss.” *Id.* at 195. Additionally, his superiors noted that Mr. ██████ “strongest attributes [were] his military bearing, dress and appearance, which are above reproach. He also has a likeable personality which adds to the work environment.” *Id.* at 191. Mr. ██████ “assist[ed] the other sections of Logistics, if needed, without hesitation and with a positive attitude.” *Id.* Mr. ██████ was appointed a noncommissioned officer and promoted to the rank of Sergeant on 1 October 1985. *Id.* at 170.

While in the Philippines, Mr. ██████ lived with his first wife, ██████ Ms. ██████ two daughters, and Mr. ██████ daughter ██████ Ex. 3 at ¶ 12. Mr. ██████ became a father to ██████ while he was in high school, and was her primary caregiver as she grew up. *Id.* at ¶ 13. Ms. ██████ describes Mr. ██████ as a “helpful spirit.” Ex. 5. While stationed in the Philippines together, Ms. ██████ witnessed Mr. ██████ “assist the local nationals in the Philippines by offering them food and clothing whenever needed.” *Id.* Mr. ██████ was also a “wonderful father;” when Ms. ██████ was an Air Force Recruiter, her long and unpredictable hours meant that Mr. ██████ often had to act as a sole parent. *Id.*

On 15 October 1984, Mr. ██████ entered Clark Air Base where he was stationed in the Philippines. Ex. 3 at ¶ 14. He began traveling down a long highway that stretched from the gates to the main base. *Id.* Mr. ██████ was on his way to play basketball with some friends. *Id.*

While on the highway, he saw a serious motorcycle crash. *Id.* No one else was on the highway and Mr. ██████ didn't see any other cars around. *Id.* Mr. ██████ remembers seeing a pile of dust and smoke. *Id.* The man on the motorcycle fell far away from his bike. *Id.* He looked twisted. *Id.* Mr. ██████ stopped his car and ran over to the injured motorcyclist. *Id.* Mr. ██████ repeatedly said, "Are you OK?" *Id.* At first the motorcyclist didn't respond; Mr. ██████ feared he had died. *Id.* The motorcyclist was bleeding badly from his arm. *Id.* Mr. ██████ knew some first aid because of his work at the hospital. *Id.* To stop the bleeding, Mr. ██████ tore a piece of cloth and applied pressure to the motorcyclist's arm. *Id.* Mr. ██████ kept repeating, "It's going to be OK" in an effort to try to bring the motorcyclist to consciousness. *Id.* The motorcyclist eventually starting moaning and moving around. *Id.* Mr. ██████ was relieved. *Id.* An ambulance arrived, and Mr. ██████ followed the ambulance to the hospital. *Id.* When Mr. ██████ arrived at the hospital, hospital personnel told him that the motorcyclist was going to survive. *Id.* On 23 May 1985, the Air Force awarded Mr. ██████ with the Air Force Achievement Medal for "his prompt action and humanitarian regard for his fellowman." Ex. 6.

Mr. ██████ was transferred to Tinker Air Force Base in March 1987. Mr. ██████ first evaluation was positive. Ex. 1 at 186-187. His reviewer noted that Mr. ██████ "took the initiative to restock shelves to make room for incoming supplies" and "[was] very courteous to supply custodians and customers." *Id.* at 187. Mr. ██████ reviewer also described that Mr. ██████ responded positively with improvement when provided with constructive feedback. *Id.* However, Mr. ██████ began experiencing difficulties with his command. Ex. 3 at ¶ 15. He felt under a lot of pressure and that he was being unfairly targeted. *Id.* He used cocaine, a decision he describes as wrong. *Id.* He tested positive on a urinalysis, was court-martialed, and was

sentenced to a Bad Conduct discharge and three months of confinement. After his period of confinement, he was discharged on 3 July 1989.

c. Mr. ██████ Life Post-Service

After his discharge, Mr. ██████ returned home to Massachusetts and embarked on a 25-year career in long-haul trucking. Ex. 3 at ¶ 16. As a part of his employment he held a Commercial Driver's License, which subjected him to mandatory random drug and alcohol testing. *See* Ex. 10 (describing such testing requirements). Mr. ██████ has maintained his sobriety through the present day.

Mr. ██████ met ██████ ██████ in 1997 and they married the next year. Ex. 3 at ¶ 18; Ex. 7 (marriage certificate). Together, Mr. ██████ and ██████ raised eight children. Ex. 3 at ¶ 18. More recently, Mr. ██████ and ██████ took on the rewarding but challenging responsibility of adopting a special needs child. Ex. 8; *see also* Ex. 7 (adoption certificate). Mr. ██████ brother ██████ states that “[his] family has watched the development of this child rise exponentially only due to the diligen[ce] of ██████ and ██████ Ex. 8.

After 25 years of driving cross-country, Mr. ██████ retired from long-haul trucking in 2015. Ex. 3 at ¶ 16. He took a job with Paul Revere Transportation, and drives a shuttle for Harvard Medical School students to access the hospital, which is off of the main campus. Ex. 3 at ¶ 17. Mr. ██████ supervisor, Mr. Jones, describes that Mr. ██████ is subject to mandatory random drug and alcohol testing as a requirement of holding his commercial driver's license. Ex. 10. Mr. Jones describes Mr. ██████ as “well liked by his passengers” and notes that he has “received a number of commendations regarding his cheerful disposition and positive attitude.” *Id.* Mr. Jones notes that Mr. ██████ has improved himself greatly since his discharge. *Id.*

Mr. ██████ also submits copies of his criminal record from the Federal Bureau of Investigation and the Commonwealth of Massachusetts. Exs. 11 and 12.

III. Discussion

a. **Although Not Timely Filed, the Board Should Consider Mr. [REDACTED] Application in the Interest of Justice**

Generally, a veteran must file a request for correction within three years after discovery of an alleged error or injustice. However, the board may excuse failure to file within this time period if it is in the interest of justice for the Board consider his application because his case is meritorious and deserving of an upgrade. *See* Air Force Board for Correction of Military Records Docket Number: BC-2012-05533 at 2 (excusing the applicant's failure to timely file in the interest of justice). Mr. [REDACTED] was discharged in 1989 and now respectfully asks the Board to exercise its discretion to upgrade his discharge status. Although Mr. [REDACTED] files this Application beyond the general period, Mr. [REDACTED] respectfully submits that it is in the interest of justice for the Board consider his application because his case is meritorious and deserving of an upgrade.

b. **Equity Guides the Board to Upgrade Mr. [REDACTED] Discharge to Honorable**

When determining whether a former airman should be granted an upgrade to his discharge status, the Board is not limited to examining "the events which precipitated the discharge." Air Force Board for Correction of Military Records Docket Number: BC-2012-05533 at 2. The Board may consider the applicant's conduct since leaving the service. *Id.* at 3. The Board may base its decision on matters of equity and clemency, particularly in the view of the passage of time and the applicant's positive post-service conduct. *Id.* at 2-3. The Board may consider whether it is unjust for Mr. [REDACTED] to continue to suffer from the adverse effects of a Bad Conduct discharge. *See id.* at 3. Additionally, "[a]n Honorable discharge characterization does not require flawless military service." Under Secretary A.M. Kurta, *Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records*

Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment (Aug. 25, 2017).

Mr. ██████ has provided extensive evidence to the Board regarding his positive post-service conduct and adjustment, including numerous letters of support from family, friends, and his employer. As described by his high school friend ██████ ██████ Mr. ██████ has always looked out for those less fortunate than him, frequently stopping by Ms. ██████ home to check on her. Ex. 13. Ms. ██████ is grateful to Mr. ██████ for assisting her when she was a struggling single mother; Ms. ██████ details that Mr. ██████ bought her diapers, food, formula, and provided her with transportation “without expecting anything in return.” *Id.* Additionally, Ms. ██████ describes how Mr. ██████ embraced his role as a father with discipline and determination while maintaining his sobriety and employment. *Id.*

Mr. ██████ used his experience as a father to mentor others, including his younger brother ██████ As ██████ describes, Mr. ██████ was “a huge source of support and guidance” when he went through the unplanned arrival of his first child. Ex. 4. Mr. ██████ “took time to help ██████ navigate the new landscape of Fatherhood” and helped ██████ embrace his new role in a positive manner. *Id.*

Mr. ██████ eldest daughter, ██████ describes him as a self-aware person who has a “very wise perspective.” Ex. 14. ██████ along with Mr. ██████ father and brothers ██████ and ██████ note that Mr. ██████ has a very strong work ethic. *Id.*; Exs. 15, 8, 16. ██████ adds that Mr. ██████ is also a nurturer. Ex. 14. ██████ relates stories relayed by her mother dating back to Mr. ██████ high school days, when he had a tendency to bring home stray cats as well as people who lacked shelter. *Id.* ██████ notes that his nurturing personality continued as he developed into a family man, who is highly involved not only with his immediate family but also

his extended family. *Id.* As Mr. ██████ brother ██████ describes, Mr. ██████ caretaking also extends beyond his family to the community. Ex. 16. Mr. ██████ has performed community service work at shelters and prisons. *Id.*

As described above, Mr. ██████ has held his commercial driver's license for nearly three decades and has been randomly screened for drugs and alcohol as a requirement of maintaining this license. Ex. 3 at ¶¶ 16-17; Ex. 10. Mr. ██████ was a long-haul truck driver for over 25 years. Ex. 3 at ¶ 16. He now drives a shuttle for Harvard Medical School students. *Id.* at ¶ 17. Just as Mr. ██████ positive attitude has made an impression on his family and friends, his cheery disposition also brightens the days of his passengers. Ex. 10.

Mr. ██████ looks back on his time in the Air Force as a period of "great personal growth," and describes his decision to join the Air Force as "one of the best decisions [he has] ever made." Ex. 3 at ¶ 19. However, Mr. ██████ also feels a great deal of shame about his decision to use cocaine and his resulting dishonorable discharge. *Id.* at ¶¶ 20-21.

IV. Conclusion

Nearly 30 years have passed since Mr. ██████ was given a Bad Conduct discharge. During this time, Mr. ██████ has lived a life characterized by dedicated service to his family, friends, and community. Given the evidence described above demonstrating Mr. ██████ lifetime of accomplishments post-discharge, Mr. ██████ respectfully asks the Board to exercise its powers under its broader mandate to consider factors related to equity and clemency in the interest of justice. Based upon his lifetime of accomplishments, Mr. ██████ respectfully submits that the continued stigma of his Bad Conduct discharge is unduly harsh and no longer serves any useful purpose. Therefore, in the interest of justice, and in view of the passage of time and his post-service adjustment, Mr. ██████ asks the Board to upgrade the characterization of his service to Honorable.

Respectfully submitted,

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