

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER:

DEC 04 1998
96-01394

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His undesirable discharge be upgraded to general.

APPLICANT CONTENDS THAT:

In view of his honorable service from 20 October 1954 to 26 December 1956, and his immaturity at age 20, his discharge should be upgraded.

The applicant states that he was a young man who had a run-in with his supervisors. He was belittled and picked-on constantly for the most mundane reason. He is not the same person he was then.

The applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

On 18 October 1954, the applicant enlisted in the Regular Air Force at the age of 17 for a period of 4 years.

On 26 December 1956, the applicant was honorably discharged and on 27 December 1956, reenlisted in the Regular Air Force for a period of 6 years.

The applicant was Absent Without Leave (AWOL) from 28 June 1957 through 18 December 1957.

The applicant was returned to military control on 19 December 1957 and placed in confinement.

On 30 January 1958, the applicant was arraigned and tried before a Special Court-Martial for violation of Article 86 of the Uniformed Code of Military Justice (UCMJ). Specifically, for being AWOL from 28 June 1957 until 19 December 1957. The applicant pled guilty and was sentenced to a bad conduct

discharge, confinement at hard labor for 6 months, and forfeiture of \$65 per months for 6 months.

The applicant was discharged on 26 May 1958. His service was characterized as other than honorable conditions. He completed 2 years, 8 months, and 5 days of active service.

On 20 January 1998, the applicant was advised to submit documentation pertaining to his post-service activities (Exhibit C).

On 8 February 1998, the Umatilla County Veterans Service Office provided miscellaneous letters and credit references on behalf of the applicant (Exhibit D).

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI), Washington, D.C., provided an investigative report which is attached at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. We find no impropriety in the characterization of applicant's discharge. It appears that responsible officials applied appropriate standards in effecting the separation, and we do not find persuasive evidence that pertinent regulations were violated or that applicant was not afforded all the rights to which entitled at the time of discharge. Considered alone, we conclude the discharge proceedings were proper and characterization of the discharge was appropriate to the existing circumstances.
4. Consideration of this Board, however, is not limited to the events which precipitated the discharge. We have a Congressional mandate which permits consideration of other factors; e.g., applicant's background, the overall quality of service, and post-service activities and accomplishments. Further, we may base our decision on matters of equity and clemency rather than simply on whether rules and regulations which existed at the time were followed. This is a much broader consideration than officials involved in the discharge were permitted, and our decision in no way discredits the validity of theirs.
5. Under our broader mandate and after careful consideration of all the facts and circumstances of applicant's case, we are persuaded that applicant has overcome the behavioral traits which led to the contested discharge and has been a productive member of society. We recognize the adverse impact of the discharge

applicant received; and, while it may have been appropriate at the time, we believe it would be an injustice for applicant to continue to suffer its effects. Accordingly, we find that corrective action is appropriate as a matter of equity and on the basis of clemency.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that on 26 May 1958, he was discharged with service characterized as general (under honorable conditions).

The following members of the Board considered this application in Executive Session on 21 November 1997, 24 February 1998, and 16 March 1998, under the provisions of AFI 36-2603:

Ms. Martha Maust, Panel Chair
Ms. Dorothy P. Loeb, Member
Mr. Gregory H. Petkoff, Member
Mr. Phillip E. Horton, Examiner (without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, undated, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFBCMR, dated 20 Jan 98.
- Exhibit D. Letter, [REDACTED] dated 8 Feb 98,
- Exhibit E. FBI Investigative Report.


MARTHA MAUST
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, D. C.

DEC 04 1998

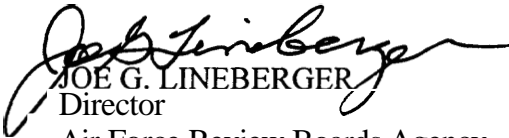
Office of the Assistant Secretary

AFBCMR 96-01394

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] [REDACTED] be corrected to show that on 26 May 1958, he was discharged with service characterized as general (under honorable conditions).


JOE G. LINEBERGER
Director
Air Force Review Boards Agency