

JUL 07 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 96-03341

[REDACTED]
[REDACTED]
COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His bad conduct discharge be upgraded.

APPLICANT CONTENDS THAT:

He has provided documentation showing that he was a good policeman and a good person. He made a mistake for which he has paid a lifetime. He tried to do what was right and failed.

In support of his appeal, the applicant provided a personal statement, several supportive statements, and copies of his Airman Performance Reports (APRs).

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant initially enlisted in the Regular Air Force on 20 Nov 69. He was honorably discharged on 7 Dec 72 in the grade of sergeant. He reenlisted on 8 Dec 72 for a period of four years. Prior to the matter under review, the applicant was progressively promoted to the grade of staff sergeant.

Applicant's Airman/Enlisted Performance Report (APR/EPR) profile follows:

| PERIOD ENDING | EVALUATION |
|---------------|------------|
| 4 Jan 71 | 8 |
| 4 Jul 71 | 8 |
| 7 Feb 72 | 9 |
| 7 Feb 73 | 9 |
| 20 Nov 73 | 9 |
| 20 Nov 74 | 7 |

On 11 Feb 75, the applicant received nonjudicial punishment under Article 15 for failure to go to his appointed place of duty. He received a suspended reduction from the grade of staff sergeant to sergeant.

On 28 Aug 75, the applicant was convicted by special court-martial of the following five specifications: (1) on 13 May 75, stealing a guitar of a value of about \$35; (2) on 12 Jul 75, stealing a radio-cassette player of a value of about \$60; (3) on 2 Aug 75, stealing British currency and United States currency of a total value of about \$277.15; (4) on 4 Aug 75, stealing British currency and United States currency of a total value of about \$323; (5) on 11 Aug 75, stealing 16 pounds of British currency, and \$234 of United States currency, of a total value of about \$271.60. He was sentenced to be discharged with a bad conduct discharge, to be confined for a period of four months, and to be reduced in grade to airman basic (E-1). The convening authority approved the sentence as adjudged.

On 5 Jan 76, the approved sentence of the special court-martial having been affirmed, the applicant's discharge was ordered into execution. He was discharged with a bad conduct discharge on 29 Jan 76. He was credited with 5 years, 11 months and 2 days of total active duty service. He had 99 days of lost time.

Pursuant to the Board's request, the Federal Bureau of Investigation, Washington, DC, indicated that, on the basis of data furnished, they are unable to locate an arrest record.

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. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. No evidence has been presented to indicate that the applicant's service characterization, which had its basis in his conviction by special court-martial and was a part of the sentence of the military court, was improper. However, in view of the passage of time and the evidence provided by the applicant regarding his post-service adjustment, a majority of the Board believes the continued stigma of a bad conduct discharge is unduly harsh and no longer serves any useful purpose. Accordingly, based on clemency, the Board majority recommends that the applicant's bad conduct discharge be upgraded to general.

THE BOARD RECOMMENDS THAT:

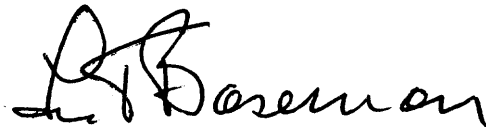
The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that, on 29 Jan 76, he was discharged with service characterized as general (under honorable conditions).

The following members of the Board considered this application in Executive Session on 15 May 98, under the provisions of AFI 36-2603:

Mr. LeRoy T. Baseman, Panel Chair
Mr. Steven A. Shaw, Member
Mr. Parker C. Horner, Member

By a majority vote, the Board voted to correct the records, as recommended. Mr. Shaw voted to deny the appeal but did not desire to submit a minority report. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 4 Nov 96, w/atchs. .
Exhibit B. Applicant's Master Personnel Records.



LEROY T. BASEMAN
Panel Chair