

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-01274

COUNSEL: None

HEARING DESIRED: No

FEE 25 1999

APPLICANT REQUESTS THAT:

His rank of chief master sergeant (CMSgt) be reinstated at his 30 year point (28 June 1998).

APPLICANT CONTENDS THAT:

If he knew a grade determination **was** made at the time of his retirement he would have appealed then, but he was not aware of **this**. There is no indication that a grade determination was made in his retirement orders, in fact, they mention that the highest **grade** held was CMSgt, again indicating to him that he would be reinstated at 30 years. He did not get briefed of this disapproval at the time of his retirement. He is asking that his outstanding military service, before he made one mistake, be reviewed. The one mistake he made did not put any Air Force member or the mission in danger. He was in a care-taker status, because his former position **was** deleted, awaiting for departure for a volunteer assignment to Korea. He had an outstanding career serving his country, the Air Force, he reached the highest enlisted grade, served 12 months in combat, had several overseas assignments, held high level management positions of responsibility, and was highly decorated.

In support of his request, he submits a copy of DD Form 214, and a copy of Special Orders No. **AC-021447**, dated 23 July 1994.

Applicant's complete submission **is** attached at Exhibit A.

STATEMENT OF FACTS:

Applicant enlisted in the Regular Air Force on 28 July 1968 attaining the grade of CMSgt on 1 November 1987.

Applicant was found guilty by a special court-martial for absenting himself, on divers occasions between on or about 1 July 1993 and on or about 15 November 1993, from his place of duty at which he was required to be, and remained absent for a period greater than three days; and on divers occasions from on or about 1 July 1993 until on or about 15 November 1993, he was derelict in the performance of his duties in that he willfully failed to perform training or work while temporarily assigned to the Information Management Flight of the 12th Mission Support Squadron for purpose of training, as it was his duty to do. On 17 May 1994, he was sentenced to a reduction to the grade of senior master sergeant, forfeiture of \$500.00 pay per month for two months, and two months hard labor without confinement. On 29 June 1994, the sentence was approved.

As part of the retirement processing, a highest grade determination was done by the Secretary of the Air Force Personnel Council (SAFPC) on 1 August 1994 and it was determined that the applicant had not served satisfactorily in the grade of CMSgt and would not be advanced to that grade on the Retired List.

On 31 August 1994, the applicant was relieved from active duty, and on 1 September 1994, was retired in the grade of SMSgt. He served 26 years, 2 months, and 3 days of total military service.

AIR FORCE EVALUATION:

The Chief, Retirements Operations Section, AFPC/DPPRR, reviewed the application and states that the law, 10 U.S.C. 8964, which allows **far** advancement of enlisted members of the Air Force when their active service plus service on **the** retired list totals 30 years is **very** specific in its application and intent. On 1 August 1994, **the** SAFPC made the determination that the applicant did not serve satisfactorily on active duty in any grade higher than that in which he retired - SMSgt. There are no other provisions of law that would allow for advancement of enlisted members. **All** criteria of the **pertinent** Paw (Section 8964) has been met in this regard and no errors or injustices have occurred in the retirement, grade determination or advancement action. In accordance with the provisions of Paw, the applicant was correctly retired in the grade of SMSgt, which was the grade he held on **the** date of his retirement. He is not entitled to advancement to any higher grade as **the** Secretary has determined that he **has** not served satisfactorily in any higher grade while on active duty. They recommend denial of applicant's request.

A complete copy of the evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 22 June 1998, a copy of the Air Force evaluation was forwarded to the applicant for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing the evidence of record, we note that Section 8964, Title 10, United States Code allows the advancement of enlisted members to the highest grade in which they served on active duty satisfactorily as determined by the Secretary of the Air Force. The Secretary of the Air Force has delegated this authority to the Secretary of the Air Force Personnel Council (SAFPC). On 1 August 1994, the SAFPC made the determination that the applicant did not serve satisfactorily on active duty in any grade higher than that in which he was retired, senior master sergeant. We found no cogent reason to disagree with this determination. Nor do we believe that the refusal to permit his advancement to the highest grade held was unduly harsh given the instances of misconduct involved. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on **12 January 1999**, under the provisions of **AFI 36-2603**:

Mr. Vaughn E. Schlunz, Panel Chair
Mr. Richard A. Peterson, Member
Mr. Frederick R. Beaman, **111**, Member
Ms. Gloria J. Williams, Examiner (without vote)

The following documentary evidence was considered:

Exhibit A. DD Form **149**, dated 5 May **1998**, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPPRR, dated 8 June **1998**, w/atchs.
Exhibit **D**. Letter, AFBCMR, dated 22 June 1998.


VAUGHN E. SCHLUNZ
Panel Chair