

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

DOCKET NUMBER: BC-2007-03360  
INDEX CODE: 110.02  
COUNSEL: DAV  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His general (under honorable conditions) discharge be upgraded to an honorable discharge.

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APPLICANT CONTENDS THAT:

His discharge was inequitable because it was based on one isolated incident in over ten years of service with no other adverse actions. He pled innocent to the drug abuse charges in 1986 and still stands by his plea today.

In support of his appeal, the applicant provided copies of his performance reports.

The applicant's complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

According to the applicant's limited military personnel records, he entered the Regular Air Force in July 1979 in the grade of airman first class (E-3) with prior enlisted service in the Regular Army. He was progressively promoted to the rank of staff sergeant (E-5) effective 1 February 1986.

On 29 June 1982, the applicant received nonjudicial punishment for being disorderly in station by fighting with another airman. His punishment consisted of forfeiture of \$50. On 25 April 1986, he received nonjudicial punishment for operating a vehicle while drunk on or about 19 March 1986, in violation of Article 111 of the Uniformed Code of Military Justice (UCMJ); and, being involved in an automobile accident in which the other driver was injured; and, wrongfully leaving the scene of the accident without identifying himself or providing assistance, in violation of Article 134, UCMJ. His punishment consisted of reduction to the grade of sergeant (E-4) and forfeiture of \$250 pay per month for two months. His punishment was suspended until 24 October 1986, at which time it would be remitted without further action, unless sooner vacated.

On 5 September 1986, the applicant was released from active duty with a general (under honorable conditions) characterization of service for misconduct - drug abuse. His discharge package is unavailable for review. He served a total of 10 years, 2 months, and 18 days on active duty.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI), Clarksburg, WV, provided a copy of an Investigation Report pertaining to the applicant. On 8 February 2008, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days (Exhibit C). As of this date, no response has been received by this office.

On 30 January 2007, the applicant was given the opportunity to submit comments about his post service activities (Exhibit D). The applicant responded with a personal statement, resume, employer letter of appreciation, and an employee recommendation (Exhibit E).

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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. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we find no evidence of an error or injustice that occurred in the discharge processing. Based on the available evidence of record, it appears the discharge was consistent with the substantive requirements of the discharge regulation and within the commander's discretionary authority. The applicant has provided no evidence which would lead us to believe the characterization of the service was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. We considered upgrading the discharge based on clemency; however, we do not find the evidence presented is sufficient to compel us to recommend granting the relief sought on that basis. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend granting the relief sought.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of 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.

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The following members of the Board considered this application in Executive Session on 29 April 2008, under the provisions of AFI 36-2603:

Mr. Gregory A. Parker, Panel Chair  
Mr. Joseph D. Yount, Member  
Mr. James A. Wolffe, Member

The following documentary evidence was considered in connection with AFBCMR Docket Number BC-2007-03360:

- Exhibit A. DD Form 149, dated 10 Sep 07, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, SAF/MRBC, dated 30 Jan 08, w/atch.
- Exhibit D. Letter, SAF/MRBR, dated 8 Feb 08, w/FBI Report.
- Exhibit E. Applicant's Letter, not dated, w/atchs.

GREGORY A. PARKER  
Panel Chair