RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-02173

 INDEX CODE: 110.00

 XXXXXXXXXXXXXXXXX COUNSEL: NONE

 HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His discharge be upgraded from under honorable conditions (general) to honorable, and that his Reentry Code be changed from “2B” (Separated with a general or under-other-than-honorable-conditions (UOTHC) discharge) to “1A” (Ineligible to reenlist, but condition waived).

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APPLICANT CONTENDS THAT:

Although the record was not in error, he is applying for the upgrade to his discharge for the purpose of using his G.I. Bill. He paid, in-full, for his G.I. Bill, but was told that he cannot use it until his discharge is upgraded to honorable.

Applicant’s complete submission is at Exhibit A.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 20 December 1991, and served as an apprentice munitions systems specialist until his discharge. On 15 December 1992, he was notified of his commander’s intention to recommend him for a general discharge for minor disciplinary infractions; specifically:

a. On or about 27 July 1992, he displayed a total disregard for the accountability of munitions by cross-loading munitions from one frag trailer to another without notifying the line driver, for which he received a Letter of Reprimand (LOR).

b. On or about 4 August 1992, he was insubordinate in his actions in that he did not tell a superior officer and non-commissioned officer the whole truth when asked about a previous incident involving the security police, for which he received a Record of Individual Counseling (RIC).

c. Article 15 punishment on 13 August 1992 for, on or about 2 August 1992, wrongfully consuming alcohol while underage, and for being disorderly. Punishment consisted of 30 days correctional custody and a suspended reduction to the grade of airman basic (E-1).

d. On or about 20 November 1992, he failed to report for duty, for which he received an LOR.

e. Article 15 punishment on 9 December 1992 for, on or about 15 November 1992, wrongfully consuming alcohol while underage. Punishment consisted of a reduction in grade to airman basic (E-1) and forfeiture of $200.

The commander notified the applicant of his rights and, on 18 December 1992, after consulting with counsel, he submitted a statement in his own behalf in which he requested that he be granted an honorable discharge as his on-duty conduct and performance generally met the required standards. A legal review was conducted on 23 December 1992, and the Staff Judge Advocate recommended the applicant be discharged without probation and rehabilitation, and that he be furnished a general discharge.

The applicant was discharged on 29 December 1992 for misconduct–pattern of minor disciplinary infractions. He was rendered a general (under honorable conditions) service characterization, a Reentry Code of “2B”, and a Separation Code of “JKN” (Misconduct). He served a total of 1 year of net active service.

Pursuant to the Board’s request, the Federal Bureau of Investigation (FBI), Clarksburg, WV, provided a copy of an Investigation Report which is at Exhibit C. On 4 November 2008, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days. However, as of this date, no response has been received by this office.

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AIR FORCE EVALUATION:

AFPC/DPSOA recommends denial of the applicant’s request to change his Reentry Code to “1A.” Reentry Codes in the “1#” series are reserved for those enlisted members considered and recommended by their commander for retention/immediate reenlistment in the Air Force or who are eligible for prior service enlistment. Additionally, according to Air Force Instruction 36-2606, *Reenlistment in the USAF*, members are not separated with a Reentry Code of “1A.”

The AFPC/DPSOA evaluation is at Exhibit D.

AFPC/DPSOS recommends denial of the applicant’s request to upgrade his service characterization to honorable. The discharge, to include the characterization of service, was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority. The applicant did not submit any evidence or identify any errors that occurred in the discharge processing, and provided no facts warranting an upgrade to his discharge characterization.

The AFPC/DPSOS evaluation is at Exhibit E.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Complete copies of the evaluations were forwarded to the applicant on 26 September 2008, for review and comment, within 30 days. However, as of this date, no response has been received by this office.

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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 agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. We considered upgrading the discharge based on clemency; however, based on the evidence of record, we cannot conclude that clemency is warranted. Moreover, it appears that he has not overcome the behavior traits which caused the discharge based on the report provided by the FBI. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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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 Docket Number BC-2008-02173 in Executive Session on 27 January 2009, under the provisions of AFI 36-2603:

 Mrs. Barbara A. Westgate, Panel Chair

 Mr. Steven A. Cantrell, Member

 Mr. Anthony P. Reardon, Member

The following documentary evidence was considered:

 Exhibit A. DD Form 149, dated 1 Jun 08.

 Exhibit B. Applicant's Available Master Personnel Records.

 Exhibit C. USDOJ FBI Report

 Exhibit D. Letter, AFPC/DPSOA, dated 30 Jun 08.

 Exhibit E. Letter, AFPC/DPSOS, dated 2 Sep 08.

 Exhibit F. Letter, SAF/MRBR, dated 26 Sep 08.

 Exhibit G. Letter, AFBCMR, dated 4 Nov 08.

 BARBARA A. WESTGATE

 Panel Chair