RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-02542

INDEX CODE: 106.00

XXXXXXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His under honorable conditions (general) discharge be upgraded to honorable, and his Separation and Reenlistment Codes be corrected.

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APPLICANT CONTENDS THAT:

He voluntarily separated twenty years ago. Since the injustice, he has earned an Associate’s Degree in Drafting and a Bachelor of Arts Degree from the University of Arkansas at Little Rock.

In support of his appeal, the applicant provides copies of his 2001, 2005, and 2008 college transcripts from the University of Arkansas at Little Rock; his Community College of the Air Force transcripts; a congratulatory letter from the American Design Drafting Association; a Certificate of Academic Achievement; a Certificate of Appreciation from the University of Arkansas at Little Rock University Writing Center; a personal statement; and his Resume.

Applicant’s complete submission, with attachments, are at Exhibit A and Exhibit I.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 28 March 1977 and served continuously as an aerospace ground equipment operator until his discharge. On 24 November 1987, the applicant was notified of his commander’s intention to recommend him for a general discharge for a pattern of misconduct prejudicial to good order and discipline, specifically:

a. Letter of Counseling (LOC) on 14 May 1984 for improper conduct as a Noncommissioned Officer.

b. Letter of Reprimand (LOR) on 15 March 1985 for issuing a bad check.

c. LOR on 2 June 1986 for falsely altering his Leave and Earnings Statement.

d. Article 15 on 11 September 1986 for disobeying a lawful order on or about 1 September 1986. Punishment consisted of a suspended reduction to the grade of airman first class (E-3) and 30 days extra duty.

e. Article 15 on 20 October 1987 for, on or about 20 October 1987, knowingly making a false official statement to his Branch Chief and First Sergeant. Punishment included a reduction to the grade of airman first class (E-3).

The commander informed the applicant of his rights, to include being represented by legal counsel and presenting his case to an administrative discharge board and, on 3 December 1987, he waived his right to present his case to an administrative discharge board, contingent on his receiving no less than a general discharge. On 10 December 1987, the Staff Judge Advocate noted the applicant was a no-show for his scheduled appointment with the Area Defense Counsel and recommended his conditional waiver be accepted and he be discharged with a general discharge. On 4 January 1988, the discharge authority accepted the applicant’s conditional waiver, and directed he be separated based upon a pattern of misconduct, with a general service characterization and without an opportunity for probation and rehabilitation.

On 6 January 1988, the applicant was discharged in the grade of airman first class (E-3) for “Misconduct – pattern of conduct prejudicial to good order and discipline,” with a general service characterization. He was given a Separation Code of “HKM” (Misconduct – Board Waiver) and a Reenlistmen Code of “2B” (Separated with a general …discharge). He completed a total of 10 years, 9 months, and 7 days of active service.

The applicant’s Airman Performance Report (APR) profile since 1979 follows:

PERIOD ENDING EVALUATION

25 Jul 1979 8

25 Jul 1980 8

18 Jun 1981 9

18 Jun 1982 9 (firewall)

8 Jun 1983 8

28 Nov 1983 8

28 Nov 1984 9 (firewall)

28 Nov 1985 8

28 Nov 1986 7

3 Nov 1987 7

Pursuant to the Board’s request, the Federal Bureau of Investigation (FBI), Clarksburg, WV, indicated at Exhibit C that they were unable to identify the applicant with an arrest record. On22 December 2008**,** a request for post-service information was forwarded to the applicant for comment within 30 days. In response to our request, the applicant provided post-service information, which is attached at Exhibit I.

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AIR FORCE EVALUATION:

AFPC/DPSOA recommends the applicant’s request to change his Reenlistment Eligibility Code of “2B” (Involuntarily separated under AFR 39-10, with a general or under-other-than-honorable-conditions (UOTHC) discharge) be denied. There was no evidence of an error or injustice and the applicant did not submit any. Contrary to the applicant’s claims, he did not voluntarily separate – he was involuntarily separated with a general discharge.

The AFPC/DPSOA evaluation is at Exhibit D.

AFPC/DPSOS recommends denial of the applicant’s request to upgrade his discharge and change his Narrative Reason for Separation. The applicant did not submit any evidence or identify any errors or injustices that occurred in the discharge processing, or provide any facts warranting an upgrade to his discharge characterization.

The administrative discharge package clearly indicates the applicant was counseled on numerous occasions regarding his conduct and was afforded an opportunity to meet Air Force standards prior to the initiation of his discharge. 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 AFPC/DPSOS evaluation is at Exhibit E.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He served in the Air Force from February 1977 to January 1988, as opposed to serving 3 years, 3 months, and 11 days *{sic}*. He also did not receive an Article 11 *{sic}* during his enlistment. Since leaving the service, he has worked in the Civil Engineering field at Little Rock AFB, AR, and has been a teacher for the past eight years. He has bettered himself by going to college and receiving two degrees, and believes his discharge should be upgraded.

The applicant’s complete response is at Exhibit G.

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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, 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.

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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-2008-02542 in Executive Session on 11 February 2009 under the provisions of AFI 36-2603:

Mr. Michael J. Novel, Panel Chair

Ms. Debra M. Czajkowski, Member

Mr. Anthony P. Reardon, Member

The following documentary evidence was considered in BC-2008-02542:

Exhibit A. DD Form 149, dated 21 May 08, w/atchs.

Exhibit B. Applicant's Available Master Personnel Records.

Exhibit C. USDOJ FBI Response.

Exhibit D. Letter, AFPC/DPSOA, dated 29 Jul 08.

Exhibit E. Letter, AFPC/DPSOS, dated 7 Oct 08.

Exhibit F. Letter, SAF/MRBR, dated 7 Nov 08.

Exhibit G. Letter, Applicant, dated 10 Nov 08.

Exhibit H. Letter, AFBCMR, dated 22 Dec 08, w/atch.

Exhibit I. Letter, Applicant, dated 10 Jan 09, w/atchs.

MICHAEL J. NOVEL

Panel Chair