RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-02800

INDEX CODE: 106.00

XXXXXXXXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

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

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APPLICANT CONTENDS THAT:

His discharge was inequitable because it was based on one isolated incident in 29 months of service. He had drug and alcohol addictions that needed to be addressed. He was caught shoplifting for Christmas presents because he did not have the money to buy presents for his family.

He took responsibility for his actions and received probation from the State. He made a mistake as a young man and his life is now free from the bondages of drugs and alcohol. He does not deserve to be penalized twice for the same thing (military and civilian), and he was informed at the time of his discharge that his service characterization would be upgraded to honorable in six months.

Applicant’s complete submission is at Exhibit A.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 22 October 1982, and served as an administrative specialist until his discharge. On 26 February 1985, he was notified of his commander’s intention to recommend him for a general discharge due to his civilian court conviction and minor disciplinary infractions; specifically:

a. Substandard duty performance for the period 22 October 1982 through 21 October 1983. Comments in his Airman Performance Report (APR) indicated that he had difficulty adapting to military life, and his bearing and behavior were marked below those standards acceptable for individuals of his same grade and time-in-service.

b. Substandard duty performance for the period 22 October 1983 through 23 September 1984. He was rendered a referral APR due to comments indicating that his adaptability to military life, self-improvement efforts, and bearing and behavior had deteriorated since his previous APR.

c. Article 15 for, on or about 22 and 23 May 1984, failure to go, and for failure to complete the Base Documentation Course.

d. Letter of Reprimand (LOR) for, on or about 18 October 1964, failure to go.

e. As a result of a search warrant, he did, on or about 14 November 1984, provide a urine sample which tested positive for the use of marijuana and cocaine.

f. LOR for, on or about 7 December 1984, failure to go.

g. His conviction by civilian authorities for, on or about 18 December 1984, the theft of gold chains of a value of $6,500.

h. Letter of Counseling (LOC) for, on or about 12 February 1985, failing to obey a lawful order by taking a break and reading a newspaper before cleaning and mopping the hallways in the Security Police facility as he had been instructed to do.

The commander informed the applicant of his rights and, on 14 March 1985, after consulting with counsel, he submitted a statement in his own behalf. On 19 March 1985, the Staff Judge Advocate recommended the applicant be discharged with a general discharge and not be afforded probation and rehabilitation opportunities.

On 22 March 1985, the applicant was discharged in the grade of airman first class (E-3) for misconduct – civilian conviction, with a general service characterization. He completed a total of 2 years, 5 months, and 1 day of net active service.

The Applicant’s APR profile follows:

PERIOD ENDING EVALUATION

21 Oct 1983 8

23 Sep 1984 7 (referral)

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 22 August 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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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 that 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, in the absence of documentation pertaining to his post-service accomplishments, we cannot conclude that it 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, 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-2008-02800 in Executive Session on 29 October 2008, under the provisions of AFI 36-2603:

Ms. Charlene M. Bradley, Panel Chair

Mr. Grover L. Dunn, Member

Ms. Patricia R. Collins, Member

BC-2008-02800

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 22 Jul 08.

Exhibit B. Applicant's Available Master Personnel Records.

Exhibit C. USDOJ FBI Report.

Exhibit D. Letter, AFBCMR, dated 22 Aug 08.

CHARLENE M. BRADLEY

Panel Chair