RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-03252

XXXXXXX, XX COUNSEL: NONE

HEARING DESIRED: NO

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPLICANT REQUESTS THAT:

His reenlistment eligibility (RE) code of “2X” (First-term, second-term, or career airman considered for but not selected for reenlistment under the Selective Reenlistment Program (SRP)) be changed to allow him to enlist in the Air National Guard.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPLICANT CONTENDS THAT:

His inability to serve his country once again is a harsh punishment for a single incident (an Article 15, Uniform Code of Military Justice (UCMJ) for aggravated assault).

In support of his request, the applicant provides copies of his DD Form 214, *Certificate of Release or Discharge From Active Duty,* Enlisted Performance Reports (EPR), and an Air Force Achievement Medal certificate.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATEMENT OF FACTS:

Applicant’s military records indicate he enlisted in the Regular Air Force as an airman basic (E-1) on 26 Oct 94 for a period of four years and was progressively promoted to the rank of senior airman (E-4) with an effective date and date of rank of 26 Oct 97.

On 26 Nov 97, he was given an Article 15, UCMJ, consisting of reduction in grade to airman first class (suspended), forfeiture of $200.00 pay per month for two months, and 45 days of extra duty (all but 20 days suspended). The reasons for this action were:

a. He did, on or about 27 Oct 97, assault an individual by threatening her with a Louisville Slugger Baseball bat.

b. He did on or about 27 Oct 97, wrongfully communicate a threat to an individual, telling her, “I’m going to bust your a--,” or words to that effect.

On 2 Dec 98, the applicant was furnished a referral Enlisted Performance Report (EPR) for the period 1 Nov 97 through 17 Nov 98, rendering him ineligible for re-enlistment.

On 25 Apr 99, the applicant was released from active duty based on the completion of his required active service and assigned an RE code of “2X”. He was furnished an Honorable characterization of service and transferred to the Air Force Reserve. He was credited with four years and six months of total active service.

Pursuant to the Board’s request, the Federal Bureau of Investigation (FBI) provided a copy of an investigative Report, which is at Exhibit C.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AIR FORCE EVALUATION:

AFPC/DPSOS recommends denial, indicating the RE Code is correct since the applicant involuntarily separated with an honorable discharge. Further, the applicant has not provided sufficient evidence to warrant corrective action based on an injustice.

A complete copy of the AFPC/DPSOS evaluation is at Exhibit D.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to applicant on 17 Sep 09 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit E).

A copy of the FBI Report of Investigation and a request for post-service information was forwarded to applicant on 25 Sep 09 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit F).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 warranting a change to the applicant’s RE code. We took notice of the applicant’s complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence the RE code of 2X, issued in conjunction with his honorable discharge, was erroneously assigned or inaccurately reflected the circumstances of his separation, 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 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 AFBCMR Docket Number BC-2009-03252 in Executive Session on 18 Nov 09, under the provisions of AFI 36-2603:

XXXXXXXXXX, Panel Chair

XXXXXXXXXX, Panel Member

XXXXXXXXXX, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 22 Sep 08, w/atchs.

Exhibit B. Applicant's Master Personnel Records.

Exhibit C. FBI Report.

Exhibit D. Letter, AFPC/DPSOA, dated 15 Sep 09.

Exhibit E. Letter, AFBCMR, dated 17 Sep 09.

Exhibit F. Letter, AFBCMR, dated 25 Sep 09, w/atch.

XXXXXXXXXX

Panel Chair