RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2009-01782

INDEX CODE: 33.07

XXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His General (Under Honorable Conditions) discharge be upgraded to Honorable.

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APPLICANT CONTENDS THAT:

He is the father of eight children and the grandfather of thirteen grandchildren. He is retired from the city of XXXXXXX, South Carolina, with twenty-seven years of service. He is also a small business owner for over fifty years. By amendment, he did not knowingly commit fraud to enlist in the Air Force, but simply followed the directions of his recruiter when he failed to indicate he had three dependents upon enlistment.

In support of his request, the applicant provides an expanded statement and copies of his 4 May 09 DD Form 293, *Application for Review of Discharge from the Armed Forces of the United States*, XXXXXXX, South Carolina Police Department search for warrants, and a DD Form 257AF, *General Discharge Certificate*.

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

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STATEMENT OF FACTS:

Applicant’s military records indicate he enlisted in the Regular Air Force on 15 Aug 51 as a private first class (E-1) for a period of four years.

On 21 Nov 51, the applicant’s commander recommended his discharge from the Air Force for fraudulent enlistment under the provisions of AFR 39-21. The reason for this action was the applicant’s failure to identify all of his dependents on his DD Form 4, *Enlistment Record – United States Air Force*.

On 20 Dec 51, the discharge authority approved the commander’s request, directing the applicant’s involuntary separation. On 9 Jan 52, the applicant was discharged from the Air Force with service characterized as Undesirable. He was credited with 4 months and 13 days of active service.

On 10 Oct 73, the applicant’s records were corrected to reflect that he was discharged under honorable conditions, with entitlement to a General Discharge Certificate pursuant to a 28 Aug 73 directive from the Acting Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

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

By letters dated 22 and 23 Aug 09, the applicant responded to the Board’s request for post-service information stating he was told by his recruiter to indicate he had only one child on his enlistment forms so he could qualify for enlistment. At no time did he knowingly commit fraud; he was just following the instructions of his recruiter. Since his discharge, he has made contributions to the community. When he returned home, he went to work for the city of XXXXXXX, South Carolina where he was employed for 27 years. He eventually retired as supervisor of the water department and is now a small business owner. During that time, he had six more children and now has 47 grandchildren.

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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 an error or injustice. The available evidence of record indicates the applicant received an undesirable discharge for fraudulent enlistment. We note that as a result of a previous Board action, the applicant’s undesirable discharge was subsequently upgraded to a general. However, the basis for the Board action could not be determined by the available evidence. The applicant now requests that his general discharge be upgraded to honorable. However, we are not persuaded by the evidence of record, or the documentation provided by the applicant, that his record of service was sufficiently meritorious to warrant an honorable discharge. Further, in view of the limited documentation concerning his post-service activities, we also are not convinced his discharge should be upgraded based on clemency. Accordingly, we find no basis to act favorably on the applicant’s request for upgrade of his general discharge to honorable.

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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 AFBCMR Docket Number BC-2009-01782 in Executive Session on 7 Oct 09, under the provisions of AFI 36-2603:

Mr. James W. Russell III, Panel Chair

Mr. Noble K. Eden, Member

Mr. Mark J. Novitski, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 27 May 09, w/atchs.

Exhibit B. Applicant's Master Personnel Records.

Exhibit C. FBI Report, dated 24 Jun 09.

Exhibit D. Letter, AFBCMR, dated 5 Aug 09, w/atch.

Exhibit E. Letter, Applicant, dated 22 Aug 09, w/atch.

Exhibit F. Letter, Applicant, dated 23 Aug 09.

JAMES W. RUSSELL III

Panel Chair