THIRD ADDENDUM TO

RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2003-02214

 XXXXXXX COUNSEL: NONE

 HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

1. His service characterization of general (under honorable conditions) be upgraded to honorable.

2. His narrative reason for separation be changed from “Misconduct” to “Secretarial Authority.”

3. His separation code of “JKM – Misconduct” be changed.

4. His Reentry (RE) code of “3K” be changed to “1.”

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STATEMENT OF FACTS:

The applicant is a former enlisted member of the Regular Air Force who served on active duty from 19 May 2000 until his administrative discharge on 29 April 2002, for misconduct. Specifically, a pattern of misconduct prejudicial to good order and discipline, i.e., failed to attend scheduled appointments, extremely disrespectful to an Army Noncommissioned Officer (NCO), assaulted his spouse, disrespectful to a Senior NCO when he muttered an obscenity in his presence, violated a direct order, arrested by civilian authorities for an altercation with a civilian, and failed to complete Volume Two of his Career Development Course; as evidence by six Letters of Reprimand and three Letters of Individual Counseling.

On 22 May 2003, the Air Force Discharge Review Board (AFDRB) considered and denied his request that his discharge be upgraded to honorable and his RE Code and reason and authority for discharge be changed.

On 8 October 2003, the Board considered applicant’s request that his discharge be upgraded to honorable, his separation code be changed, and his RE code be changed to allow his reenlistment into the armed forces. The Board found insufficient evidence of an error or injustice and denied the application. For an accounting of the facts and circumstances surrounding the application, and the rationale of the earlier decision by the Board, see the Record of Proceedings at Exhibit G.

On 29 October 2004, the Board reconsidered applicant’s request that his separation code and RE code be changed. The Board found insufficient evidence of an error or injustice and denied the application. For an accounting of the facts and circumstances surrounding the application, and the rationale of the earlier decision by the Board, see the Addendum to Record of Proceedings at Exhibit I.

On 21 February 2006, the Board reconsidered applicant’s request that his characterization of discharge and RE Code be upgraded and that his narrative reason for separation and separation code be changed. In the absence of evidence the applicant’s discharge for misconduct was improper, the Board found insufficient evidence of error or injustice to warrant upgrading the characterization of his service to honorable and changing his RE code to “1.” Accordingly, this portion of the application was denied. However, the Board found a sufficient basis to change his RE code to “3K” in an effort to provide him an opportunity to seek a waiver for prior service enlistment consideration. On 3 March 2006, the recommendation of the Board was approved and his records were corrected to show that at the time of his discharge on 29 April 2002, his RE code was “3K.” For an accounting of the facts and circumstances surrounding the application, and the rationale of the earlier decision by the Board, see the Second Addendum to Record of Proceedings at Exhibit I.

In an application, dated 24 May 2010, the applicant requests reconsideration of his request to upgrade his discharge to honorable, change the narrative reason for his separation from “Misconduct” to “Secretarial Authority, change his separation code of “JKM – Misconduct,” and change his RE code from “3K” to “1.” The applicant contends that if his 2002 discharge is upgraded to honorable, he will become eligible for the Montgomery G. I. Bill since he has completed 36 months of active duty service. Further, despite his four years in the U.S. Coast Guard and two years with the Texas Army National Guard, he has been denied positions in law enforcement and denied enlistment in the Regular and Reserve components of the Air Force due to the service characterization he received in conjunction with his 2002 discharge.

In support of the appeal, the applicant submits extracts from his records, to include his honorable discharge certificate from the Texas Army National Guard, training certificates, letters of recommendation, letters of commendation, decoration certificates/citations, and performance reports. The applicant’s complete submission, with attachments, is at Exhibit M.

In accordance with AFI 36-2603, the new submission is forwarded for possible reconsideration. The relevance and weight of the new evidence and whether or not it was discoverable by the applicant at the time of any previous application should be determined and your decision rendered as to:

 a. Evidence submitted is new but not relevant -- deny applicant's request for reconsideration.

 b. Evidence is new and relevant--grant request.

 c. Evidence is new and relevant--deny request.

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THE BOARD CONCLUDES THAT:

1.  Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice to warrant changing his RE code to “3K.” After careful review of the circumstances of the applicant’s discharge for misconduct, we found no evidence to indicate that his separation from the Air Force was inappropriate. Applicant’s assigned RE code of 2B accurately reflects his involuntary separation with a general discharge. Applicant is currently serving in the Texas Army National Guard (TX ARG) and desires to enlist in the Coast Guard; however, his RE code is preventing from doing so. In support of his request, applicant submits a letter of recommendation from his Army commander attesting to his outstanding service while deployed in Iraq. In view of this, and after careful consideration of all the facts and circumstances of the applicant’s case, we believe that it would be an injustice for him to continue to suffer the adverse effects of the assigned RE code. Therefore, in the interest of justice, we recommend that his RE code be changed to 3K, which is a code that can be waived for prior service enlistment consideration, provided he meets all other requirements for enlistment under an existing prior service program. Whether or not he is successful will depend on the needs of the service and our recommendation in no way guarantees that he will be allowed to return to any branch of the service.

2.  After thoroughly reviewing the evidence of record and the additional documentation submitted by applicant, we are still not persuaded that his discharge should be upgraded to honorable, that the narrative reason for his separation be changed to “Secretarial Authority,” that his separation code be changed, and that his RE code changed to “1.” In the absence of evidence that his separation from the Air Force for misconduct was inappropriate or that he was denied rights to which entitled, we find no basis upon which to recommend favorable consideration of this portion of his request.

3.  The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that at the time of his discharge on 29 April 2002, his reenlistment eligibility (RE) code was RE-3K.

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The following members of the Board reconsidered AFBCMR Docket Number BC-2003-02214 in Executive Session on 21 February 2006, under the provisions of AFI 36-2603:

 Chair

 Member

 Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

 Exhibit I. Addendum to Record of Proceedings,

 dated 7 Dec 04, w/atchs.

 Exhibit J. DD Form 149, dated 30 Dec 05, w/atchs.

 Exhibit K. Letter, Applicant, dated 29 Jan 06, w/atch.

 Chair