RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2010-02528

 XXXXXXX COUNSEL: NONE

 HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

His reenlistment eligibility status be changed from “Ineligible” to “Eligible” so he can reenlist in the Air Force Reserve.

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APPLICANT CONTENDS THAT:

The military made an error when they discharged him when he had requested to be transferred to inactive status. He experienced some personal problems that prevented him from attending monthly Unit Training Assemblies (UTA). The Air Force Reserve was a very important part of his life and he would like the opportunity to continue his contract.

In support of his request, the applicant provides an expanded statement and a copy of the background investigation summary of findings related to his security clearance.

The applicant’s complete submission, including the attachment, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant’s military personnel records indicate he enlisted in the Air Force Reserve on 30 Sep 02 for a period of six years and was progressively promoted to the grade of senior airman (E-4), effective and with a date of rank of 30 Jun 03.

On 3 Feb 06, the applicant’s commander notified him of his intent to recommend his discharge from the Air Force Reserve for unsatisfactory participation. The applicant did not acknowledge receipt of the action as the letter of notification (LON) was returned by the Postal Service as undeliverable.

On 11 May 08, the case file was found to be legally sufficient, contingent on the unit curing the lack of documentation showing the applicant received notice of the specific basis and evidence for his discharge. Specifically, the LON noted an attachment, “Statement of Reasons,” describing the reasons for the action; however, said attachment was not in the case file. The legal review noted the discrepancy as a procedural and substantive error, but indicated it was curable, provided the unit supply a statement from an official directly involved in mailing the LON to the applicant with factual knowledge the Statement of Reasons and supporting documents were attached to the LON.

On 28 May 08, the discharge authority approved the commander’s recommendation and directed the applicant’s discharge. On 5 Jun 08, the applicant was furnished a General (Under Honorable Conditions) discharge for Unsatisfactory Participation, effective 28 May 08, with a Reenlistment eligibility status of “Ineligible.”

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AIR FORCE EVALUATION:

AFRC/A1K recommends denial, indicating there is no evidence of an error or injustice. The reenlistment eligibility status of “Ineligible” reported on the discharge order is in fact accurate. It is also important to note this eligibility status, in and of itself, does not preclude the applicant’s future service in the Air Force Reserve. Based on the conditions of his separation, the applicant is eligible to pursue a waiver, provided he is otherwise qualified for service. However, his accession into the Air Force Reserve would be contingent, in part, on the gaining organization’s willingness to support such a waiver.

A complete copy of the AFRC/A1K evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 8 Oct 10 for review and response within 30 days. As of this date, no response has been received by this office (Exhibit D).

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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 timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice warranting a change to the applicant’s reenlistment eligibility status. 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. We note the applicant may be eligible for enlistment in the Air National Guard or Air Force Reserve with a waiver, based on the needs of the service and provided he is otherwise qualified. Therefore, in the absence of evidence his eligibility factor of “Ineligible,” issued in conjunction with his General (Under Honorable Conditions) discharge, was erroneously assigned or inaccurately reflected the circumstances of his separation, we find no basis to recommend granting the relief sought in this application.

4.  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 issues involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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-2010-02528 in Executive Session on 27 Jan 11, under the provisions of AFI 36-2603:

 Mr. XXXXXXXXXX, Panel Chair

 Mr. XXXXXXXXXX, Member

 Mr. XXXXXXXXXX, Member

The following documentary evidence was considered:

    Exhibit A. DD Form 149, dated 27 Jun 10, w/atchs.

 Exhibit B. Applicant's Master Personnel Records.

 Exhibit C. Letter, AFRC/A1K, dated 10 Sep 10.

 Exhibit D. Letter, SAF/MRBR, dated 8 Oct 10.

 XXXXXXXXXX

 Panel Chair