

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00201

COUNSEL: NONE

HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

His records be corrected to reflect he was retired in lieu of being discharged.

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APPLICANT CONTENDS THAT:

He believes his commander's decision to deny him retirement was unjust. He served his country and the Air Force with commitment and honor for 21 years. He gave his all and very best during every occasion both before and after this unfortunate incident.

His complete submission is at Exhibit A.

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STATEMENT OF FACTS:

On 17 Dec 85, the applicant contracted his initial enlistment in the Regular Air Force. He was progressively promoted to the grade of master sergeant (MSgt).

On 11 Mar 07, the applicant while driving drunk, struck a pedestrian with his vehicle. He failed to stop and assist the pedestrian or call for help. The pedestrian survived briefly, but later passed away.

On 31 March 2009, the applicant was convicted by the civilian authorities for felony motor vehicle homicide, felony leaving the scene after causing death, and misdemeanor operating a motor vehicle under the influence.

On 25 Apr 09, the applicant was notified by his commander that he was being recommended for discharge in lieu of retirement from the Air Force for a civil conviction. The applicant was advised the discharge could result in an under other than honorable conditions (UOTHC) discharge. He was also advised of his right to apply for retirement IAW AFI 36-3203, *Service Retirements*, in which he would receive a retirement in lieu of discharge under AFI 36-3208, *Administrative Separation of Airmen*.

On 30 Apr 09, the applicant acknowledge receipt of the notification for discharge and invoked his right to a hearing before an administrative discharge board and to submit statement in his own behalf.

On 8 May 09, the applicant submitted a conditional waiver to his right to have the case heard before an administrative discharge board contingent upon the receipt of a under honorable conditions (general) discharge. On 23 Jun 09, the applicant's request for a conditional waiver was denied and completion of the discharge was directed. On 9 May 09, the applicant submitted a request to retire in lieu of discharge; the request was returned to the applicant without action and he was directed to submit a new application upon completion of the discharge process. On 26 Aug 09, the applicant submitted a new application for retirement.

The legal offices conducted a legal review and the staff judge advocates found the case legally sufficient to support separation and recommended UOTHC discharge without probation and rehabilitation.

The applicant's commander, wing commander and the vice commander recommended disapproval of the applicant's request to retire in lieu of discharge.

On 17 Mar 10, the Secretary of the Air Force denied the applicant's request for retirement.

On 12 Apr 10, the applicant was separated from the Air Force with an UOTHC discharge. He served 24 years, 3 months and 26 days on active duty.

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AIR FORCE EVALUATION:

AFPC/DPSOR recommends denial noting the applicant has not provided any supporting documentation with his application.

The complete DPSOR evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant states he has served his debt to society without incident or complaint. He believes the continued denial of his retirement would be unfair.

In support of his request, the applicant has provided seven character references and two newspaper articles.

The applicant's complete submission, with attachments, is at Exhibit E.

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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. We took notice of the applicant's complete submission, to include his rebuttal, 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. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend granting the relief sought.
  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-2012-00201 in Executive Session on 10 Oct 12, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00201 was considered:

- Exhibit A. DD Form 149, dated 9 Jan 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSOR, dated 28 Feb 12.
- Exhibit D. Letter, SAF/MRBR, dated 1 May 12.
- Exhibit E. Letter, Applicant's Counsel, dated 23 May 12,  
w/atchs

Panel Chair