

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00326

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records be corrected to show he was transferred to the retired reserve on 18 Nov 11 rather than being honorably discharged for drug abuse.

APPLICANT CONTENDS THAT:

He was wrongly accused of a positive urinalysis for cocaine and was honorably separated after 20 years of exemplary service. He applied to be placed in the retired reserve, but his request was denied.

The wrongful urinalysis happened in 2008; however, he was not discharged until nearly three years later.

In support of his appeal, the applicant provides copies of a notice of administrative discharge letter, a letter of administrative discharge from the discharge authority, and his under honorable conditions discharge order.

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

STATEMENT OF FACTS:

The applicant began his military service on 16 Nov 87. After serving for approximately 11 years on active duty, he transferred to the Air Force Reserve in 1999.

On 5 Jun 08, he provided a urine sample as part of a random drug test which tested positive for cocaine at a level of 1,948 ng/mL. The DOD cutoff is 100 ng/mL.

On 23 Feb 09, the applicant received his Notification of Eligibility for Retired Pay at age 60 (20-year letter). This letter does not constitute transfer to the Reserve Retired List (RRL) but only notifies the applicant of his eligibility to received retired pay at age 60.

On 9 Mar 09, the applicant applied to the Secretary of the Air Force (SECAF) for permission to transfer to the Retired Reserve. SECAF denied his request on 16 Jul 09. Said denial does not make the applicant ineligible for retired pay at age 60, it only prohibits him from applying for transfer to the RRL.

On 11 and 14 Apr 11, an administrative discharge board (ADB) was convened to determine whether or not the applicant should be discharged for drug abuse. The ADB found the applicant did wrongly use cocaine and recommended he be discharged with a general (under honorable conditions) discharge for drug abuse.

On 14 Oct 11, the ADB's decision and recommendation were found to be legally sufficient. AFRC/JA recommended the applicant be discharged for drug abuse with a general (under honorable conditions) characterization of service without the possibility of Probation & Rehabilitation (P & R).

On 6 Dec 11, the applicant was furnished a general (under honorable conditions) discharge for Misconduct, Commission of a Serious Offense, Drug Abuse.

AIR FORCE EVALUATION:

AFRC/A1K recommends denial. A1K notes the applicant's discharge from the USAFR was in compliance with Air Force Instruction 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*. He was discharged for Misconduct, Commission of a serious offense: Drug Abuse.

A1K's complete evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 27 Mar 12 for review and comment within 30 days. As of this date, no response has been received by this office.

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 error or injustice. 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. While the evidence of record indicates the applicant's administrative discharge proceedings were completed some three years after the offense in question, we are not convinced that said delay served to deprive the applicant of rights to which he was entitled or somehow makes his discharge for drug abuse inappropriate to the circumstances. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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.

The following members of the Board considered AFBCMR Docket Number BC-2012-00326 in Executive Session on 19 Jul 12, under the provisions of AFI 36-2603:

Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 29 Dec 11, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFRC/A1K, dated 9 Mar 12.
- Exhibit D. Letter, SAF/MRBR, dated 27 Mar 12.

Chair