

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00479
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. His general (under honorable conditions) discharge be upgraded to "Honorable."
 2. His Reenlistment (RE) code be changed from 2G, which denotes "Participating in Substance Abuse Reorientation and Treatment program for drugs, or has failed to complete reorientation," to an RE code of 1, which denotes "Reenlistment Eligible."
 3. His narrative reason for separation be changed from "Misconduct-Drug Abuse," to "Convenience of the Government."
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APPLICANT CONTENDS THAT:

It has been almost 27 years since his separation and this is his second attempt to upgrade his discharge.

He made a terrible mistake and has paid the price for 27 years.

His punishment was too harsh and much worse than most people received for the same offense.

He has been a good citizen and has never been in trouble of any kind and does not use drugs.

He has been married for over 22 years and has a son in college.

He was 21 years old and immature and made a terrible decision.

He is praying for a second chance.

In support of his request, the applicant provides copies of his DD Form 214, *Certificate of Release or Discharge from Active Duty*; DD Form 4/1, *Enlistment/Reenlistment Document - Armed Forces of the United States*; Standard Form 88, *Report of Medical Examination*, Medical and Dental History, Letters of support from his wife, and a clinical psychologist, and a personal statement.

His complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

On 8 Mar 1983, the applicant enlisted in the Regular Air Force.

On 15 Apr 1985, his commander notified him that he was recommending he be discharged under the provisions of AFR 39-10, *Administrative Separation of Airmen*. The specific reason for this action was his abuse of drugs as evidenced by a urine specimen he submitted on 20 Feb 1985 which subsequently tested positive for the presence of THC, the active ingredient in marijuana, for which he received non-judicial punishment on 4 Apr 1985.

On 15 Apr 1985, the applicant acknowledged receipt of the discharge notification and provided statements from himself and his supervisor.

On 23 Apr 1985, the Staff Judge Advocate (SJA) found the discharge legally sufficient.

On 26 Apr 1985, the applicant was discharged from the Air Force, with a general (under honorable conditions) discharge and a RE code of "2G," "Participating in Substance Abuse Reorientation and Treatment program for drugs, or has failed to complete reorientation." He served 2 years, 1 month, and 19 days of total active service.

A check of Federal Bureau of Investigation (FBI) files revealed no negative information (Exhibit C). On 19 Jun 2012, a request for post-service information was forwarded to the applicant for review and comment within 30 days (Exhibit D). The applicant responded on 26 Jun 2012 and provided copies of his résumé, college degree, offer of employment letter, and his drug screen results.

His complete response, with attachments, is at Exhibit E.

AIR FORCE EVALUATION:

DPSOS recommends denial of the applicant's request to change his character of service, separation code and narrative reason for separation. DPSOS states based on the documentation on file in his master personnel records, the discharge was consistent with the procedural and substantive requirements of the discharge instruction and was within the discretion of the discharge authority. He did not submit any evidence or identify any errors or injustices in the discharge processing.

The characterization of the discharge the applicant received should not be changed. AFR 39-10 states, "Airmen who abuse drugs one or more times are subject to discharge for misconduct." The regulation defines drug abuse as "illegal,

wrongful, or improper use, possession, sale, transfer, or introduction onto a military installation of any drug." While retention of first term-first time drug abusers is sometimes appropriate, it is done only when the airman's overall record is so meritorious it would be in the best interest of the Air Force to retain the individual. The applicant was counseled and disciplined for other failures to adhere to Air Force standards. His record was not so meritorious as to make a general discharge clearly inappropriate.

The complete DPSOS evaluation is at Exhibit F.

HQ AFPC/DPSOA recommends denial of the applicant's request for a change of RE code. DPSOA states the applicant was separated for Misconduct-Drug Abuse with a general (under honorable conditions) character of service. He received a RE code of 2G. However, upon being approved for involuntary discharge his RE code should have been changed to 2B, which denotes, "Approved Involuntary Separation with Less Than Honorable Discharge."

RE code 2B is the correct RE code. If the Board upgrades the applicant's character of service to honorable his RE code would automatically change to 2C, which denotes "Involuntarily separated under AFR 39-10 with an honorable discharge." Additionally, if the RE codes 2B, and 2C were bypassed, the next RE code that would apply to applicant would be 2G. DPSOA will provide the applicant a corrected copy of his DD Form 214 with an RE code of 2B, unless otherwise directed by the Board.

The complete DPSOA evaluation is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He is disheartened and fails to understand how he can be labeled a drug abuser after one failed urinalysis in 1985. It appears that the decision is already made and this is just a formality. He vehemently asserts that he is not a drug abuser. He has been married for 22 years and has a 21 year old son in college. He has also received a college degree. He has never been in trouble with the law, owns two homes and pays his bills on time.

He asserts that he does not take drugs and never did abuse drugs. He made an enormous, one time mistake in 1985. He cannot change the past. He admitted to that mistake and paid for it and asks the Board to consider an upgrade to his discharge.

His complete response, with attachments, is at Exhibit I.

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 error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; to include his response to the Air Force evaluations, 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. The applicant has provided no evidence which would lead us to believe the characterization of the service was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offense committed. In the interest of justice, we considered upgrading the discharge and changing the narrative reason for separation based on clemency; however, we do not find the evidence presented is sufficient to compel us to recommend granting the relief sought on that basis. Since the applicant was separated with a general (under honorable conditions) discharge, we agree with DPSOA's recommendation that his RE code should be changed to 2B to accurately reflect the type of separation he received. Aside from the administrative correction noted above and in the absence of evidence to the contrary, we find no basis upon which to recommend granting further relief.

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.

The following members of the Board considered this application in Executive Session on 2 Aug 2012 and 21 Aug 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in AFBCMR BC-2012-00479:

- Exhibit A. DD Form 149, dated 12 Jan 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report, dated 23 May 2012.
- Exhibit D. Letter, AFBCMR, dated 19 Jun 2012.
- Exhibit E. Letter, Applicant, dated 26 Jun 2012, w/atch.
- Exhibit F. Letter, AFPC/DPSOS, dated 9 Apr 2012.
- Exhibit G. Letter, AFPC/DPSOA, dated 30 Apr 2012.
- Exhibit H. Letter, SAF/MRBR, 11 May 2012.
- Exhibit I. Letter, Applicant, 18 May 2012, w/atchs.

Panel Chair