

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00802

COUNSEL: NONE

HEARING DESIRED: NOT INDICATED

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APPLICANT REQUESTS THAT:

His under other than honorable conditions discharge be upgraded to honorable.

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APPLICANT CONTENDS THAT:

His discharge should be upgraded for the good of the service.

In support of his request, the applicant provides his resume, DD Form 214, *Report of Separation from Active Duty* and letters of support.

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

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 10 October 1974. On 20 August 1975, the applicant was convicted by special court-martial for failing to obey a lawful general regulation by wrongfully using heroin, in violation of 92, Uniform Code of Military Justice. He was sentenced to a bad conduct discharge, confinement at hard labor for four months and reduction to the grade of airman basic.

The applicant was discharged effective 17 March 1976 with an under other than honorable conditions discharge. He was credited with 1 year, 4 months and 8 days of active duty service.

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AIR FORCE EVALUATION:

AFLOA/JAJM recommends denial. The applicant requests his discharge be upgraded, yet he offers no argument as to why his discharge should be upgraded. He alleges no error or injustice

regarding the findings of the court-martial or the sentence. He also offers no new information regarding the offense.

Title 10 United States Code 1552(f)(2) permits the Air Force Board for Correction of Military Record, relating to action on the sentence of courts-martial, for the purpose of clemency. The Rules for Courts-Martial 1003(b)(8)(C) states a bad conduct discharge is designed as punishment for bad conduct. It is more than just a service characterization; it is a punishment for crimes committed while a member of the Armed Forces.

The applicant's sentence to a bad conduct discharge, confinement at hard labor for four months and a reduction to airman basic was well within the legal limits and was an appropriate punishment for the crime committed. Having demonstrated no undue hardship or burden imposed by his discharge, there appears to be no justification for upgrading his discharge characterization in the interest of clemency. Upgrading the applicants discharge is not appropriate.

The complete JAJM 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 28 June 2012, for review and comment within 30 days (Exhibit D). As of this date, this office has received no response.

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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 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. After careful consideration of the applicant's request and the available evidence of record, we find no evidence which indicates that the applicant's service characterization, which had its basis in his conviction by special court-martial and was a part of the sentence of the military court, was improper or that it exceeded the limitations set forth in the Uniform Code of Military Justice (UCMJ). We have considered applicant's overall quality of service, the special court-martial conviction which precipitated the discharge, and the seriousness of the offense to which convicted, e.g., wrongful use of heroin. Based on the evidence of record, we cannot conclude that clemency is

warranted. Therefore 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 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.

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The following members of the Board considered AFBCMR Docket Number BC-2012-00802 in Executive Session on 11 September 2012, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 17 Feb 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFLOA/JAJM, 18 Jun 12.
- Exhibit D. Letter, SAF/MRBR, dated 28 Jun 12.

Panel Chair