

airman first class, E-3, suspended forfeitures of \$792.00 pay per month for two months, and a reprimand. For the 15 September 2004 incident the applicant's punishment consisted of reduction to the grade of airman, E-2, and a reprimand.

On 18 October 2004, the applicant acknowledged receipt of the notification of discharge and was advised of his right to consult counsel and submit statements for consideration. He declined to consult counsel or to submit a statement on his behalf.

Subsequent to the file being found legally sufficient, the discharge authority approved the separation and directed the applicant be discharged with a general (under honorable conditions) characterization of service.

The applicant was released from active duty on 16 November 2004 and was credited with 4 years, 11 months, and 2 days of active duty service.

AIR FORCE EVALUATION:

AFPC/DPSOS recommends denial. DPSOS states they cannot confirm what the applicant may have been told regarding an upgrade to his service characterization; but, there is no automatic upgrade of service characterization due to the passage of time. Each request for upgrade is decided by evidence presented by the applicant and on the individual merits of the case.

AFI 36-3208, chapter 5, section h - misconduct, paragraph 5.54, states that airmen who abuse drugs one or more times are subject to discharge for misconduct. Paragraph 5.54.1., defines drug abuse as "illegal, wrongful, or improper use, possession, sale, transfer, or introduction onto a military installation of any drug." A drug is any controlled substance as defined by Title 21, United States Code, (U.S.C.) section 812, or any other substance other than alcohol ingested into the body to alter mood or function.

Based on the documentation on file in the master personnel records, the applicant's discharge was consistent with the procedural and substantive requirements of the discharge instruction and was within the discretion of the discharge authority. The applicant did not submit any evidence or identify any errors or injustices in the discharge processing.

The complete AFPC/DPSOS evaluation is at Exhibit C.

AFPC/DPSOA addresses the applicant's reentry (RE) code. DPSOA states the applicant's DD Form 214 reflects the correct RE code per AFI 36-2606, *Reenlistment in the United States Air Force*,

chapter 5, based on his involuntary discharge with a general character of service.

The complete AFPC/DPSOA evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 7 August 2012 for review and comment within 30 days (Exhibit E). To date, this office has not received a response.

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; however, we agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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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.

The following members of the Board considered this application BC-2012-02200 in Executive Session on 18 December 2012, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149 dated 22 May 2012.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSOS, dated 21 June 2012.
- Exhibit D. Letter, AFPC/DPSOA, dated 13 July 2012.
- Exhibit E. Letter, AFBCMR dated 7 August 2012.

Panel Chair