

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-02478

COUNSEL: NONE

HEAF ES N

MAY 15 1998

APPLICANT REQUESTS THAT:

His undesirable discharge be upgraded to honorable or general.

APPLICANT CONTENDS THAT:

He enlisted in the service at the age of 17. He worked hard and enjoyed his service time until approximately 1954. He was transferred from shipping and handling to an office job he was not qualified for and he began drinking. If he had it over to do, he would handle it differently.

In support of his request, the applicant submits a copy of his DD Form 214 and character reference letters (Exhibit A).

STATEMENT OF FACTS:

Applicant's military personnel records reveals his Total Active Federal Military Service Date (TAFMSD) as 15 February 1952.

On 11 October 1954, applicant was notified of his commander's intent to impose disciplinary punishment pursuant to Article 15, UCMJ, for failure to repair to his assigned place of duty, on or about 27 and 28 September 1954. Applicant acknowledged receipt of the proposed action. He did not demand trial by court-martial and did not submit any mitigating evidence. On 15 October 1954, the applicant was reduced to the grade of airman third class and reprimanded. Applicant did not appeal the punishment.

On 30 October 1954, applicant was tried before a summary court-martial. He pled guilty to making a false official statement to an OSI agent, on or about 20 September 1954. He was found guilty and sentenced to restriction for 30 days and forfeiture of \$50 of his pay. The sentence was approved and ordered executed by the convening authority on 30 October 1954.

On 24 March 1955, applicant was tried before a summary court-martial. He was charged with violation of Article 86, UCMJ, Specifications 1 through 4 for being AWOL (total of 12 days). He pled not guilty to specification 3; however, he was

found guilty of all specifications, Applicant was sentenced to confinement at hard labor for 30 days and forfeiture of \$60 of his pay. The sentence was approved and ordered executed by the convening authority on 24 March 1955.

On 22 April 1955, applicant was tried before a summary court-martial. He was charged with being AWOL (2 days), on or about 19 April 1955 until on or about 21 April 1955. He pled not guilty; however, he was found guilty. Applicant was sentenced to confinement at hard labor for 30 days and forfeiture of \$65. The sentence was approved and ordered executed by the convening authority on 26 April 1955.

On 23 March 1955, the group commander recommended the applicant for discharge under the provisions of AFR 39-17. The commander provided the following reason for this discharge action: The applicant indicated by his continued tendency of causing disturbances and generally bringing discredit upon the uniform of the USAF, that he had no desire to adhere to the standards of conduct necessary for satisfactory military service. Applicant committed breaches of discipline repeatedly, despite numerous reprimands and warnings. He had exhibited a behavior pattern such as to make his separation from the Air Force mandatory for both the good of the service and himself. On 23 March 1955, the applicant acknowledged that his commander had initiated involuntary discharge action against him for unfitness and that he was entitled to an impartial hearing by a Board of Officers. Legal counsel was made available to him and he voluntarily signed an application for discharge. On 2 May 1955, the discharge authority accepted applicant's discharge application and directed that he be furnished an undesirable discharge certificate.

On 25 May 1955, applicant received an undesirable discharge in the grade of airman basic (permanent), with the date of rank of 24 March 1955. He had completed a total of 3 years 1 month and 14 days of active duty service at the time of discharge. He had a total of 57 days of lost time.

Applicant's request for a change to his discharge was denied by the Air Force Discharge Review Board (AFDRB) on 12 August 1955. A copy of the AFDRB Hearing Record is appended at Exhibit C. The applicant's request for reconsideration of his appeal was considered and denied on 7 December 1955 and 7 March 1956.

Pursuant to the Board's request, the Federal Bureau of Investigation, Clarksburg, WV, provided an investigative report which is attached at Exhibit D.

AIR FORCE EVALUATION:

The Separations Branch, HQ AFPC/DPPRS, stated that the applicant has not filed a timely request. DPPRS indicated that applicant's five AWOLs totaled 14 days and the two confinements totaled 43

days. DPPRS stated that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority. The applicant was provided full administrative due process. DPPRS stated that the records indicate the applicant's military service was reviewed and appropriate action was taken. A complete copy of this evaluation is appended at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Pursuant to the Board's request for additional post-service evidence, the applicant provided a statement indicating that he is a good civilian, he does not drink nor does he do drugs. He provided a listing of his previous employers. He is a "class A carpenter." He indicated that during his military career, his morale dropped very low and things seemed to change. He apologizes for his actions and requests that his discharge be upgraded (Exhibit G).

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. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Although the evidence presented does not substantiate that the applicant's discharge was improper or contrary to the provisions of the governing regulation under which it was effected, a majority of the Board is persuaded that some relief is warranted in this case on the basis of clemency. After careful consideration of all the facts and circumstances of applicant's case, a majority of the Board is persuaded that applicant has overcome the behavioral traits which led to the contested discharge and has been a productive member of society since 1956. We recognize the adverse impact of the discharge applicant received; and, while it may have been appropriate at the time, a majority of the Board believes it would be an injustice for applicant to continue to suffer its effects. Therefore, a majority of the Board recommends his discharge be upgraded to one under honorable conditions (general). After reviewing the overall record, we do not believe that a further upgrade is warranted.
-

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 25 May 1955,

he was discharged with service characterized as general (under honorable conditions).

The following members of the Board considered this application in Executive Session on 15 May 1998, under the provisions of AFI 36-2603:

Mr. LeRoy T. Baseman, Panel Chair
Mr. Steven A. Shaw, Member
Mr. Parker C. Horner, Member

By a majority vote, Messrs. Baseman and Horner voted to grant the applicant's request. Mr. Shaw voted to deny the applicant's request and submitted a minority report. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 5 Jun 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. AFDRB Hearing Record, dated 12 Aug 55.
- Exhibit D. FBI Identification Record, PCN 980127104416.
- Exhibit E. Letter, HQ AFPC/DPPRS, dated 25 Sep 97.
- Exhibit F. Letter, SAF/MIBR, dated 13 Oct 97.
- Exhibit G. Letter from applicant, dated 18 Jan 98.
- Exhibit H. Minority Report.



LEROY T. BASEMAN
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

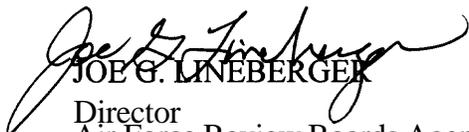
MAY 15 1998

AFBCMR 97-02478

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that on 25 May 1955, he was discharged with service characterized as general (under honorable conditions).


JOE G. LINEBERGER
Director
Air Force Review Boards Agency