

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 96-03654

COUNSEL:

HEARING DESIRED: Yes

JUL 31 1998

APPLICANT REQUESTS THAT:

His general discharge be upgraded to honorable; the reason for his discharge be changed to "convenience of the government;" and, his reenlistment eligibility (RE) code be changed to RE-1.

APPLICANT CONTENDS THAT:

Under current standards, he would not have received the type of discharge he did and the civilian community would have treated his disability in an entirely different manner. His record of court-martial conviction indicates only minor and isolated offenses. He has been a good citizen since his discharge.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Chief, Relief & Inquiries Branch, AFLSA/JAJM, reviewed this application and recommended denial (see Exhibit C).

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant reviewed the Air Force evaluation and provided a four-page statement (see Exhibit E).

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. The Board majority finds no impropriety in the characterization of applicant's discharge. While the applicant claims that he was suffering from stress-induced insomnia and was allegedly self-medicating his condition, the majority notes that this issue was addressed at the court-martial and finds that he has not provided any reliable medical information to suggest an issue of lack of mental responsibility or capacity existed at trial or during the commission of offenses. In addition, while the applicant refers to the Army's "Impaired Health-Care Provider Program," and believes that under current standards, he would not have received the discharge that he did, the majority notes, and as stated by the Air Force, had the applicant committed the offenses in 1997, he still would have been court-martialed. In view of the seriousness of the offenses committed, the fact that this program exists today does not entitle him to the relief he is seeking. Therefore, a majority of the Board concludes that the court-martial and resulting punishment were proper and find no evidence to recommend the relief requested.
4. The majority of the Board also finds insufficient evidence to warrant a recommendation that the discharge be upgraded on the basis of clemency. We commend applicant on his post-service accomplishments and apparent rehabilitation, however, based on the egregiousness of the offenses committed, the Board majority finds no compelling basis upon which to conclude that further clemency is warranted at this time. In this respect, we note that applicant's court-martial sentence included dismissal from the Air Force, however, the Secretary of the Air Force afforded applicant a large measure of clemency by upgrading the dismissal to a general discharge. In view of the foregoing, the Board majority cannot recommend a further upgrade based on the current evidence of record.
5. 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 issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

A majority of the panel finds insufficient evidence of error or injustice and recommends the application be denied.

The following members of the Board considered this application in Executive Session on 14 July 1998, under the provisions of Air Force Instruction 36-2603:

- [REDACTED], Panel Chair
- [REDACTED], Member
- [REDACTED], Member
- [REDACTED], Examiner (without vote)

By a majority vote, the Board recommended denial of the application. [REDACTED] The following documentary evidence was considered:

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- Exhibit A. DD Form 149, dated 9 Dec 96, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFLSA/JAJM, dated 1 Apr 97.
- Exhibit D. Letter, AFBCMR, dated 21 Apr 97.
- Exhibit E. Letter fr applicant, undated.

[REDACTED]