RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-01308

INDEX CODE: 106.00

XXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His under honorable conditions (general) discharge be upgraded to honorable.

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APPLICANT CONTENDS THAT:

Some of his behavior was a direct result of his Post-Traumatic Stress Disorder (PTSD). He is proud of his country, served during the Gulf War, has finally gotten his life together and is correcting errors, and would like for his discharge to reflect he is a proud American veteran.

In support of his appeal, he has submitted a copy of a DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*.

Applicant’s complete submission, with attachment, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant served as a dental assistant specialist in the Regular Air Force until his discharge.

On 13 January 1993, the applicant was notified of his commander's intent to recommend him for a general discharge for minor disciplinary infractions. The commander stated the following reasons for the proposed discharge:

1. Article 15 for, on or about 14 November 1992, wrongfully drinking while underage. Punishment consisted of a reduction in grade to airman (E-2), suspended until 2 June 1993, and forfeiture of $100 pay for two months.
2. Vacation of suspended Article 15 action for, on or about 24 December 1992, failing to obey a lawful order issued by a superior officer to remain in the Clovis-Portales areas during his holiday time-off, for which the applicant was reduced to the grade of airman (E-2). Although not listed in the commander’s notification letter, the vacation action also indicated the applicant did, on or about 16 December 1992, with intent to deceive, make a false official statement to a superior non-commissioned officer that he was not going to leave the local area during his holiday time-off.

The commander advised the applicant of his rights, and, on 19 January 1993, after consulting with counsel, he submitted a statement appealing that his discharge be characterized as honorable rather than general.

A legal review was conducted, and in an undated memorandum, the staff judge advocate recommended the applicant be separated with a general discharge.

On 22 January 1993, the applicant was discharged in the grade of airman (E-2) for misconduct – pattern of minor disciplinary infractions, under the provisions of AFR 39-10, paragraph 5-46, with a general (under honorable conditions) service characterization. He served a total of 2 years, 10 months, and 1 day of net active service.

The applicant’s Enlisted Performance Report (EPR) profile follows:

PERIOD ENDING EVALUATION

21 Nov 1991 3

18 Jul 1992 4

Pursuant to the Board’s request, the Federal Bureau of Investigation (FBI), Clarksburg, WV, provided a copy of an Investigation Report which is at Exhibit C. On 19 May2008, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days. However, as of this date, no response has been received by this office.

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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. We took notice of the applicant's complete submission in judging the merits of the case; 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 offenses committed. We considered upgrading the discharge 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, based among other things, on the report provided by the FBI. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend granting the relief sought.

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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 Docket Number BC-2008-01308 in Executive Session on 10 July 2008, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 1 Apr 08, w/atch.

Exhibit B. Applicant's Available Master Personnel Records.

Exhibit C. USDOJ FBI Report.

Exhibit D. Letter, AFBCMR, dated 19 May 08.