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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02814

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, be corrected to restore his rank to sergeant (E-4).

APPLICANT'S CONTENTIONS

He was told his rank would be reinstated when it was determined he had honorable service; however, there was no correction by the time he was discharged.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force airman basic (E-1).

On 17 Aug 66, according to DD Form 214, the applicant entered the Regular Air Force in the grade of E-1.

On 27 Feb 69, according to the DD Form 214, the applicant was honorably discharged in the rank of E-4.

On 28 Feb 69, according to AF Form 1114, *Enlistment Contract – Armed Forces of the United States*, the applicant reenlisted in the Regular Air Force in the grade of E-4.

On 17 Sep 71, the Chief, Mental Health services diagnosed the applicant with Passive-Aggressive Personality, passive-dependent type, and recommended the applicant be discharged.

On 5 Oct 71, an evaluating officer recommended the applicant be discharged for unsuitability. The specific reasons were his record of repeated absences without leave, two special court martials, coupled with a psychiatric report indicating continued active duty service is not in the best interest of the Air Force.

On 18 Oct 71, according to DD Form 214, the applicant was honorably discharged in the grade of E-1. He was credited with 4 years and 10 months of active service including 11 months and 28 days of foreign and/or sea service.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

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AIR FORCE EVALUATION

AFPC/DPMSPP (Enlisted Promotions) recommends denying the application. Based on the documentation provided and analysis of the facts, there is no evidence of an error or injustice regarding the rank issued upon administrative separation. The applicant was recommended for discharge during a special court-martial and was found guilty on all charges. Consequently, he was discharged under honorable conditions in accordance with Air Force Manual 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*, Chapter 2, Section A, in the rank of airman basic. There is no documentation in the applicant's record indicating any restoration of rank prior to separation.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 10 Feb 23 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMSPP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2022-02814 in Executive Session on 19 Oct 23:

Work-Product	Panel Chair
Work-Product	, Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

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- Exhibit A: Application, DD Form 149, w/atchs, dated 9 Sep 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSPP, dated 8 Feb 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 Feb 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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