

ADDENDUM TO
RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 96-03134

AUG 25 1998

COUNSEL: NONE

HEARING DESIRED: NO

RESUME OF CASE

In an application dated 15 October 1996, applicant requested that his discharge be upgraded from general to honorable; and that he be promoted to sergeant with back pay. He contended that the punishment was too severe due to illness. He submitted a personal statement, several character references, and a copy of his Enlisted Record and Report of Separation WD AGO Form 53-58.

The Board considered his application on 7 October 1997, and partially granted his request for his discharge to be upgraded from general to honorable. A complete copy of the Record of Proceedings is attached at Exhibit D.

On 7 May 1998, the applicant provided additional documentation and requested reconsideration of his request for promotion to the grade of sergeant with back pay. Applicant's complete submission is attached at Exhibit E.

THE BOARD CONCLUDES THAT:

Insufficient relevant evidence has been presented to demonstrate the existence of a probable error or injustice. After thoroughly reviewing the evidence of record and the additional documentation submitted by applicant, we find insufficient evidence to warrant favorable consideration of the applicant's request for promotion to the grade of sergeant with back pay. We note that this Board upgraded the applicant's discharge to honorable based on clemency. However, the applicant has failed to demonstrate that he should be promoted to the grade of sergeant. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend favorable consideration of this request.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the applicant 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 in Executive Session on 3 June 1998, under the provisions of AFI 36-2603:

Mr. LeRoy T. Baseman, Panel Chair
Mr. Michael P. Higgins, Member
Mr. David W. Mulgrew, Member
Ms. Phyllis L. Spence, Examiner (without vote)

The following documentary evidence was considered:

Exhibit D. Record of Proceedings, dated 19 Nov 97 w/atchs.
Exhibit E. Letter from friend of applicant, dated 7 May 98.


MICHAEL P. HIGGINS
Acting Panel Chair

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

NOV 19 1997

IN THE MATTER OF:

DOCKET NUMBER: 96-03104

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His discharge be upgraded from general to honorable; and that he be promoted to sergeant with back pay.

APPLICANT CONTENDS THAT:

The punishment was too severe due to illness.

In support of his request, applicant provides a personal statement, several character references, and a copy of his Enlisted Record and Report of Separation WD AGO Form 53-58.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant's military personnel records were destroyed by fire in 1973. Therefore, the facts surrounding his separation from the Air Force cannot be verified.

Applicant submitted a copy of his Enlisted Record and Report of Separation which reveals that he enlisted in the Army Air Corp on 11 March 1945 and was discharged from the Air Force on 21 April 1949. He was issued a general discharge and the reason for separation was under Paragraph 3e(1)AR 615-360 (Expiration Term of Service).

Pursuant to the Board's request, the Federal Bureau of Investigation, Washington, DC, provided an Investigative Report which is attached at Exhibit C.

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. We find no impropriety in the characterization of applicant's discharge. It appears that responsible officials applied appropriate standards in effecting the separation, and we do not find persuasive evidence that pertinent regulations were violated or that applicant was not afforded all the rights to which entitled at the time of discharge. Considered alone, we conclude the discharge proceedings were proper and characterization of the discharge was appropriate to the existing circumstances.
4. Consideration of this Board, however, is not limited to the events which precipitated the discharge. We have a Congressional mandate which permits consideration of other factors; e.g., applicant's background, the overall quality of service, and post-service activities and accomplishments. Further, we may base our decision on matters of inequity and clemency rather than simply on whether rules and regulations which existed at the time were followed. This is a much broader consideration than officials involved in the discharge were permitted, and our decision in no way discredits the validity of theirs.
5. Under our broader mandate and after careful consideration of all the facts and circumstances of applicant's case, we are persuaded that applicant has overcome the behavioral traits which led to the contested discharge and has been a productive member of society. We recognize the adverse impact of the discharge applicant received; and, while it may have been appropriate at the time, we believe it would be an injustice for applicant to continue to suffer its effects. Accordingly, we find that corrective action is appropriate as a matter of equity and on the basis of clemency. Applicant's request for an honorable discharge was considered; however, in view of his misconduct, we do not believe that a promotion to sergeant with back pay 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 21 April 1949, he was honorably discharged and furnished an Honorable Discharge Certificate.

The following members of the Board considered this application in Executive Session on 7 October 1997, under the provisions of AFI 36-2603:

Mr. LeRoy T. Baseman, Panel Chairman
Mr. David W. Mulgrew, Member
Ms. Sophie A. Clark; Member
Ms. Phyllis L. Spence, Examiner (without vote)

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 15 Oct 96.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. FBI Report.


LEROY T. BASEMAN
Panel Chairman