

JUN 23 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-03179

COUNSEL: MR. SCHLUZ II

HEARING DESIRED: NO

Applicant requests that his undesirable discharge be upgraded to honorable. Applicant's submission is at Exhibit A.

The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). Applicant's response to the advisory opinion is at Exhibit E.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. David W. Mulgrew, Mr. Frederick R. Beaman III, and Mr. Joseph G. Diamond considered this application on 16 June 1998, in accordance with the provisions of Air Force Instruction 36-2603 and the governing statute, 10 U.S.C. 1552.

  
DAVID W. MULGREW  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. AFBCMR Ltr Forwarding Advisory Opinion
- E. Applicant's Response
- F. FBI Report



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS



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MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPRS  
550 C Street West Ste 11  
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records [REDACTED]

The applicant, while serving in the grade of airman **private**, was discharged from the Air Force 27 Jun 51 under the provisions of AFR 39-17 (Unfitness) and received **an undesirable discharge**. He served 01 year, 10 months and 05 days total active service.

Requested Action. The applicant is requesting that his undesirable discharge be upgraded to honorable.

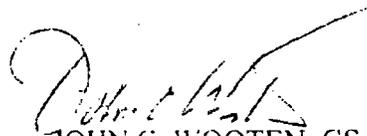
Basis for Request. Applicant states he **was** not mentally sound at the time of his discharge and his due **process** right **was** violated because of that. **He** indicates in **his application that he** would like his discharge to be upgraded to at least **unadaptable** or **unsuitable** because his defense counsel told him that if he did not fight the discharge board that he would receive a general discharge and would be eligible for the draft into the Army in 6 months. He further **states** that he found out later that he had a mental disorder and that the psychiatrist report **was** in Jan 50 and **he** went before the discharge board in May 50 and that AFR 39-17 states he should have gone before the psychiatrist within 30 days before going before a discharge board. **AFDRB** reviewed his case on 17 Mar 60 and again on 9 Mar 82 and **AFDRBs** denied his request for upgrade of his discharge we concur with the findings of those boards.

Facts. On 17 May 51, applicant's commander recommended that the applicant be required to **appear** before a Board of Officers convened to **review** evidence of habits or traits of character manifested **by** misconduct by the applicant. He had been court-martial three times during **his** current enlistment. The first court-martial **was** for disobeying a NCO and **using** threatening language, the second court-martial **was** for disobeying a NCO and failure to repair and the third court-martial was for failure to obey the lawful orders of an officer. Applicant had a total of **49** days **lost** time due to **two** confinement periods. Applicant appeared before the board **with** counsel. The discharge board's findings and recommendations **were:** that the applicant had **been** previously court-martial three times, the applicant had **received** company punishment for failure to repair, statement from **the** Base Psychiatrist **that applicant** had a **paranoid personality**, all attempts **for** rehabilitation had **proven** to fail and finally, retention in the Air Force was not to be in the best interest of the Air Force. The discharge board recommended the applicant be **given** **an** undesirable discharge. On 15 Jun 51, the discharge authority directed that applicant **be** discharged under the provisions of **AFR 39-17** and that he be issued an undesirable discharge certificate.

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**Discussion.** This case has been reviewed and the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the sound discretion of the discharge authority and that the applicant was provided full administrative due process. AFR 39-17.25 Jan 51 does not require that a mental report be submitted within 30 days of a member appearing before a discharge board. The records indicate member's military service was reviewed and appropriate action was taken.

**Recommendation.** Applicant did not submit any new evidence or identify any errors in the discharge processing nor provide facts which warrant an upgrade of the discharge he received. Accordingly, we recommend applicant's request be denied. He has not filed a timely request.

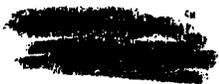


JOHN C. WOOTEN, GS-9

**Military Personnel Mgmt Spec**

Separations Branch

Dir of Personnel Program Management



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