

JUN 23 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 98-00147

COUNSEL: NONE

HEARING DESIRED: NO

Applicant requests that his under other than honorable conditions 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). As of this date, no response has been received by this office.

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 C. Van Gasbeck, Mr. Michael P. Higgins, and Mr. Thomas S. Markiewicz considered this application on 17 June 1998, in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10 U.S.C. 1552.



DAVID C. VAN GASBECK  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. SAF/MIBR Ltr Forwarding Advisory Opinion



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

FEB 27 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPRS

550 C Street West Ste 11  
Randolph AFB TX 78150-4713

SI            pli            for            rr            of Militar            :

The applicant, while **servi**ng in the **grade** of airman second class, was discharged from the **Air** Force **21** Sep 64 **under** the provisions of AFR 39-22 (Civil Court Conviction) **and** received an under other than honorable conditions discharge. He served **03 years, 01** month and **12** days total active service.

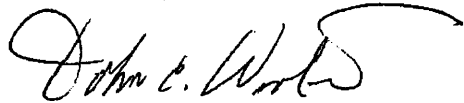
Requested Action. The applicant is requesting that **his** under other **than** honorable conditions discharge be upgraded to honorable.

Basis for Request. Applicant claims he convicted in civil court for grand larceny **and** he was not **guilty**.

Facts. **On 21 Aug 64**, applicant's commander recommended that the applicant be eliminated from the Air Force under **AFR 35-22** based on **his** conviction in civil **court** for **grand** larceny and sentenced to five (5) years confinement. An Order of Probation in the Circuit **Court** was issued on **22 Jul 64**, **stating** the defendant had entered a pleas of **guilty** and had never before been **convicted** of a felony in that **state**, placed **him on** probation for 18 months. **On 21 Aug 64**, applicant made application for an undesirable discharge in lieu **of** a Board of Officers. In **his** application, applicant indicated that legal counsel had been made available to him and **that** he understood that if the application was approved, his separation **from the Air Force may** be under conditions other than honorable and that he may receive an undesirable discharge. The applicant's application for discharge without benefit of Board Proceedings was approved on **16 Sep 64** and the discharge **authority** directed that he be issued **an** under other than honorable conditions **discharge**.

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 discretion of the discharge authority and that the applicant was provided **full** administrative **due** process. The records indicate member's military service was reviewed **and** appropriate action was taken.

**Recommendation.** Applicant did not submit evidence or identify any errors in the discharge processing nor provide facts which warrant an upgrade of the discharge he received over 33 years ago. 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**