RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-02911

 INDEX CODE: 106.00

 XXXXXXXXXXXXXXXXXX COUNSEL: NONE

 HEARING DESIRED: NO

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPLICANT REQUESTS THAT:

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPLICANT CONTENDS THAT:

The discharge is in error or unjust under the provisions of Air Force Regulation 39-17, and Title 10, United States Code, Section 1552.

In support of his appeal, he has provided a copy of his DD Form 214.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 8 November 1963, and served as an apprentice aircraft mechanic until his discharge. Although not specifically cited as a basis for discharge, the applicant’s records contain the following incidents of documented misconduct:

a. 11 February 1964 – Reduced to the grade of airman basic via Article 15 action while attending Air Force Technical Training. No other information is available.

b. 6 May 1964 – Written reprimand for using profanity in the base gym.

c. 18 June 1964 – Convicted by a special court-martial for being drunk and disorderly in station. Sentenced to be confined at hard labor for two months and to forfeit $45.00 per month for two months, suspended until 18 June 1965.

d. 24 and 25 August 1964 – Counseled for failure to meet a dental appointment.

e. 28 September 1964 – Written reprimand and placed on the Control Roster for disorderly conduct and bringing discredit upon the military service. The incident which precipitated the action was a gang fight on 29 July 1964 involving the applicant, another airman, and five civilian youths. The applicant was charged by civilian authorities with assault with a dangerous weapon, disorderly conduct, and resisting arrest. The charges against all involved were later dropped for lack of prosecution.

f. 16 October 1964 – Disciplinary action via Article 15 action for failure to obey a lawful order of a Non-Commissioned officer.

g. 19 October 1964 – Suspension of two-month confinement from previous special court-martial vacated due to his misconduct.

h. 30 December 1964 – Disciplinary action via Article 15 action for being disorderly in a public place.

i. 14 April 1965 – Disciplinary action via Article 15 action for failure to repair.

j. 23 April 1965 – Disciplinary action via Article 15 action for being disorderly in station.

k. 5 May 1965 – Convicted by a special court-martial for being disorderly in station. Sentenced to be confined at hard labor for 20 days and to forfeit $55.00.

On 27 April 1965, the applicant was notified of his commander's intention to recommend him for a general discharge for unfitness; specifically, his frequent involvement of a discreditable nature with civil and military authorities. The commander advised the applicant of his rights, to include having his case heard by a board of officers, and, on 6 May 1965, after consulting with counsel, he waived his right to a hearing before a board of officers and to submit statements in his own behalf.

On 12 May 1965, a legal review was conducted in which the Staff Judge Advocate noted that the applicant’s problems resulted almost entirely from his inability to drink alcoholic beverages without disastrous results. They further noted that his conduct had been described as very good when he was sober; however, his difficulties seem to have stemmed from a personality trait that was manifested only when he was intoxicated. They stated that under normal circumstances, the applicant’s record would warrant the issuance of an undesirable discharge; however, in view of the foregoing and the fact that he was only 18 years of age, they recommended he be issued a general discharge.

On 21 May 1965, the applicant was discharged in the grade of airman basic (E-1) with a general (under honorable conditions) service characterization. He served a total of 1 year, 4 months, and 25 days of net active service.

The applicant’s Airman Performance Report (APR) profile follows:

 PERIOD ENDING EVALUATION

 27 Sep 1964 3-1

 27 Jan 1965 3-2

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 18 September2008, a copy of the FBI report and a request for post service activities 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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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, based on the

evidence of record and in the absence of documentation pertaining to his post-service accomplishments, we cannot conclude that clemency is warranted. In view of the above, we cannot recommend approval based on the current evidence of record.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following members of the Board considered Docket Number BC-2008-02911 in Executive Session on 29 October 2008, under the provisions of AFI 36-2603:

 Ms. Charlene M. Bradley, Panel Chair

 Mr. Grover L. Dunn, Member

 Ms. Patricia R. Collins, Member

The following documentary evidence was considered:

 Exhibit A. DD Form 149, dated 19 Jun 08, w/atch.

 Exhibit B. Applicant's Available Master Personnel Records.

 Exhibit C. USDOJ FBI Report.

 Exhibit D. Letter, AFBCMR, dated 18 Sep 08, w/atch.

 CHARLENE M. BRADLEY

 Panel Chair