RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2010-03863

 XXXXXXX COUNSEL: NONE

 HEARING DESIRED: NO

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

APPLICANT REQUESTS THAT:

His General (Under Honorable Conditions) discharge be upgraded to honorable.

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

APPLICANT CONTENDS THAT:

His service was honorable and he would like his record to reflect it as such.

The applicant’s complete submission is at Exhibit A.

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

STATEMENT OF FACTS:

The applicant’s military personnel records indicate he enlisted in the Regular Air Force on 30 Sep 86.

On 30 Jan 92, the applicant was notified by his commander of his intent to recommend his discharge from the Air Force for Misconduct—Minor Disciplinary Infractions, under the provisions of AFR 39-10, *Administrative Separation of Airmen.* The reasons for the action included dereliction of duty, financial irresponsibility, failure to maintain standards, and failure to carry out responsibilities as a non-commissioned officer; all in violation of various articles of the Uniform Code of Military Justice (UCMJ); for which he received letters of counseling, letters of reprimand, unfavorable information file (UIF) entries, and non-judicial punishment (NJP) under the provisions of Article 15 of the UCMJ.

On 30 Jan 92, after consulting with legal counsel, the applicant waived his right to an administrative discharge board and elected not to submit statements in his behalf.

On 20 Feb 92, the case was found to be legally sufficient and the discharge authority approved the commander’s recommendation the same day, directing the applicant’s administrative discharge without probation and rehabilitation.

On 25 Feb 92, the applicant was furnished a General (Under Honorable Conditions) discharge under the provisions of AFR 39-10, *Administrative Separation of Airmen,* for Misconduct—Pattern of Minor Disciplinary Infractions and was credited with 5 years, 4 months, and 26 days of total active service.

Pursuant to the Board’s request, the Federal Bureau of Investigation (FBI) provided a copy of an Investigative Report, which is at Exhibit C.

A copy of the FBI Investigative Report and a request for post-service information was forwarded to the applicant on 19 Jan 11 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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

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 an error or injustice. We took notice of the applicant’s complete submission in judging the merits of this case; however, we find no evidence or an error or injustice that occurred in the discharge process. It appears the applicant’s discharge was consistent with the substantive requirements of the discharge regulation in effect at the time and within the commander’s discretionary authority. No evidence has been presented to indicate otherwise. We considered upgrading the discharge based on clemency; however, in the absence of any documentation concerning his post-service activities, we are not convinced his discharge should be upgraded on that basis. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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 AFBCMR Docket Number BC-2010-03863 in Executive Session on 14 Jul 11, under the provisions of AFI 36-2603:

 Ms. XXXXXXXXXX, Panel Chair

 Ms. XXXXXXXXXX, Member

 Ms. XXXXXXXXXX, Member

The following documentary evidence was considered:

 Exhibit A. DD Form 149, dated 4 Oct 10.

 Exhibit B. Applicant's Master Personnel Records.

 Exhibit C. FBI Report.

 Exhibit D. Letter, AFBCMR, dated 19 Jan 11, w/atch.

 XXXXXXXXXX

 Panel Chair