

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00120
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

His discharge was inequitable because it was based on one isolated incident in five years of service with no other adverse action. He overslept and was less than 30 minutes late for an office appointment.

In support of the applicant's appeal, he provides a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty*.

The applicant's complete submission, with attachment, is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 19 September 1983.

The applicant was notified by his commander of his intent to recommend that he be discharged from the Air Force under the provisions of AFR 39-10. The specific reasons are as follows:

a. Between on or about 17 July 1984 and 26 February 1985 the applicant received three Letters of Counseling (LOCs) for his failure to report to a scheduled appointment, wrongfully appropriating a government vehicle, and for being derelict in the performance of his duties.

b. On or about 21 December 1984, the applicant went on leave thru 4 January 1985 for a period of 15 days. He was to be back by 2400 on 4 January 1985 and he was not. As a result, his leave was extended four days. For this misconduct he received a Letter of Reprimand (LOR).

c. On 26 February 1985, the applicant was offered an Article 15 for wrongfully appropriating a government vehicle, being derelict in the performance of his duties and for disobeying a lawful order (items stated above). The applicant demanded a trial by court-martial and on 1 May 1985, he was convicted and sentenced to confinement for 15 days, to perform hard labor without confinement for 45 days, to forfeit \$100 pay per month for two months and a reduction to the grade of airman first class.

He was advised of his rights in this matter and elected to submit a statement on his own behalf. In a legal review of the case file, the staff judge advocate found the case legally sufficient and recommended discharge. The discharge authority concurred with the recommendation and directed a general discharge. The applicant was discharged on 18 July 1985. He served 5 years, 5 months and 27 days on active duty and credited with 2 years, 9 months and 4 days of foreign service.

Pursuant to the Board's request, the Federal Bureau of Investigation indicated that on the basis of the data furnished, they were unable to locate an arrest record.

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. Additionally, due to lack of evidence of a successful post-service adjustment, we do not find it would be in the interest of justice to upgrade his discharge on the basis of clemency. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend granting the relief sought.

The following members of the Board considered AFBCMR Docket Number BC-2012-00120 in Executive Session on 28 June 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00120 was considered:

- Exhibit A. DD Form 149, dated 20 October 2011, w/atck.
- Exhibit B. Applicant's Master Personnel Records.