

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00129

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

He was told his discharge would automatically be upgraded six months after his discharge.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant entered the Air Force on 27 Jul 79.

On 28 Apr 83, his commander notified the applicant that he was recommending his discharge due to misconduct. The reason for this action was a pattern of misconduct prejudicial to good order and discipline, to include:

1. Use of marijuana, between 1 Aug 82 and 30 Sep 83.
2. Dereliction of duty--willful failure to report marijuana use by other Air Force members, between 1 Mar 82 and 30 Sep 82.
3. Dishonored checks issued to AAFES, on or about 14 Jan 83 and 9 Jan 83.
4. Disobedience of a lawful order, on or about 3 May 82.
5. Failure to report to duty, on or about 14 Apr 82.
6. Unauthorized absence from place of duty, on or about 6 Apr 82.
7. Theft of gasoline from AAFES, on or about 11 Jun 81.

8. Dishonored check issued to AAFES, on or about 6 Aug 80.

9. Dishonored check issued to the NCO Open Mess, on or about 24 Jul 80.

The applicant acknowledged his right to consult with counsel and submit statements in his own behalf, but declined to do so. On 28 Apr 83, his commander recommended him for discharge due to a pattern of misconduct prejudicial to good order and discipline.

On 10 May 83, the case was determined to be legally sufficient and, on 12 May 83, the discharge authority directed the applicant be discharged with a General (Under Honorable Conditions) discharge without probation and rehabilitation.

On 17 May 83, the applicant was furnished a General (Under Honorable Conditions) Discharge for misconduct—a pattern of misconduct prejudicial to good order and discipline and credited with 3 years, 9 months, and 21 days of service.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI) indicated they were unable to locate an arrest record based on the information available.

On 1 Jun 12, a request for post-service information was forwarded to the applicant for review and comment within 30 days (Exhibit C).

In response, the applicant provides an expanded statement and two character reference letters. He states his reason for discharge was that he rode in a van with two airmen who were smoking marijuana, but he did not report them because he was taught not to be an informant. Since his discharge he worked for 12 years building roadways, for 15 years as a welder/fabricator in a tool and machine operation where he worked his way up to foreman, was a Boy Scout leader for seven years, a deacon and trustee at his church, and has been a board member for two low income senior citizen homes for 12 years. He has turned his life around completely since his discharge, and feels the Air Force instilled many of the values and morals that he lives by today.

The applicants' complete response, with attachments. is at 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 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. In the interest of justice, we considered upgrading the discharge on the basis of clemency; however, we do not find the evidence presented is sufficient for us to recommend granting the relief sought on that basis at this time. In view of the foregoing, and in the absence of evidence to the contrary, we conclude that no basis exists to grant 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 the application.

The following members of the Board considered AFBCMR Docket Number BC-2012-00129 in Executive Session on 7 Aug 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 9 Jan 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report.
- Exhibit D. Letter, AFBCMR, dated 1 Jun 12, w/atch.
- Exhibit E. Letter, Applicant, undated, w/atchs.

Panel Chair