

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00222
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

An upgrade to his discharge was required under President Carter's administration.

In support of his request, the applicant provides a copy of his DD Form 215, *Correction to DD Form 214, Certificate of Release or Discharge from Active Duty*.

His complete submission, with attachment, is at Exhibit A.

STATEMENT OF FACTS:

On 15 Nov 1976, the applicant enlisted in the Regular Air Force.

On 22 Aug 1979, his commander notified him he was recommending he be discharged under the provisions of AFM 39-12, *Separation for Unsuitability, Unfitness, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation*. The reason for this action was his apathetic and defective attitude towards maintaining the prescribed standards of military deportment. In 1979, there were infractions of financial irresponsibility, frequent involvement with civil and military authorities, destruction of government property, unsanitary habits and an Article 15 for failure to go. Specific infractions were as follows:

On 22 Aug 1979, the applicant acknowledged receipt of the discharge notification.

On 14 Sep 1979, the Staff Judge Advocate (SJA) found the discharge legally sufficient.

On 20 Sep 1979, the applicant was discharged from the Air Force, with a general (under honorable conditions) discharge. He

served 2 years, 10 months, and 6 days of total active service, which excludes 4 days of lost time.

On 17 Dec 1989, the applicant submitted a request to the Air Force Discharge Review Board (AFDRB) for an upgrade to his discharge.

On 24 Aug 1990, the AFDRB considered his application and concluded a change in the type or nature of his discharge was not warranted and his application was denied. Additionally, while reviewing his military personnel records, the AFDRB discovered that some of his service dates were erroneously entered on his DD Form 214. The AFDRB issued the applicant a DD Form 215 reflecting the administrative correction of the data.

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

On 24 Aug 2012, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days (Exhibit D), 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. 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 based on clemency; however, we do not find the evidence presented is sufficient to compel us to recommend granting the relief sought on that basis. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend granting the relief sought in this application.

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 this application in Executive Session on 4 Oct 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in AFBCMR BC-2012-00222:

- Exhibit A. DD Form 149, dated 14 Jan 2012, w/atch.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report, dated 9 Aug 2012.
- Exhibit D. Letter, AFBCMR, dated 24 Aug 2012.

Panel Chair