

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00246
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

He was young and immature when he was discharged and he has since developed and matured.

He was not aware he could request a discharge upgrade until he spoke with a Veterans Service Officer.

In support of his request he provides copies of his DD Form 214, *Certificate of Release or Discharge from Active Duty*; and VA Forms 21-4108, *Statements in Support of Claim*.

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

STATEMENT OF FACTS:

On 3 Aug 1978, the applicant enlisted in the Regular Air Force.

On 6 Jun 1980, 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 Program*, for his frequent involvement of a discreditable nature with military authorities. This is documented by:

Article 15, 24 Apr 1979, Violation of Article 128, UCMJ, Assault.

Article 15, 10 Jan 1980, Violation of Article 121, UCMJ, Stealing.

Article 15, 14 May 1980, Violation of Article 134, UCMJ, Possession of Marijuana.

On 6 Jun 1980 and 9 Jun 1980, the applicant acknowledged receipt of the discharge notification.

On 19 Jun 1980, he was interviewed by the appointed evaluation officer. The evaluation officer recommended the applicant be discharged and be given a general discharge and that his request for an upgrade to honorable be considered due to his excellent on duty work record.

On 24 Jun 1980, the Staff Judge Advocate found the discharge legally sufficient.

On 27 Jun 1980, the applicant was discharged from the Air Force, with a service characterized as general (under honorable conditions). He served 1 year, 10 months and 25 days of total active service.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI), Washington, D.C., provided an investigative report at Exhibit C.

On 19 Jun 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, this office has received no response.

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 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 14 Aug 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in AFBCMR BC-2012-00246:

- Exhibit A. DD Form 149, dated 13 Jan 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report, dated 28 Feb 2012.
- Exhibit D. Letter, AFBCMR, dated 19 Jun 2012.

Panel Chair