

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00314  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His under other than honorable conditions (UOTHC) discharge be upgraded to a general (under honorable conditions) discharge.

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APPLICANT CONTENDS THAT:

He believes his discharge was inequitable because it was based on one isolated incident in 48 months of service with no other adverse action. He was young and may have made a mistake but served his country well for three years without incident.

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.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 7 March 1979.

The staff judge advocate's legal review dated 6 April 1983, reflects the applicant received two Article 15s between on or about 14 January 1983 and 11 February 1983 for disrespect to a superior non-commissioned officer, and for the wrongful use of marijuana and wrongful use of marijuana in the hashish form. The applicant received three letters of reprimand on or between 4 August 1982 and 4 January 1983 for disrespect to a commissioned officer, failure to obey a lawful regulation and failure to obey a lawful order. The review further states that court-martial charges were preferred on 3 March 1983 and referred to trial by special court-martial on 7 March 1983. The applicant was charged with two specifications of obstructing justice and one specification of soliciting a false official statement all in violation of Article 134, UCMJ, and with one specification of conspiring to obstruct justice in violation of Article 81, UCMJ.

He was advised of his rights in this matter and after consulting with counsel the applicant submitted a request for discharge in lieu of trial by court-martial.

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 UOTHC discharge. The applicant was discharged on 29 April 1983. He served 4 years, 1 month and 23 days on active duty with 2 years, 10 months and 3 days of foreign service.

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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 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.

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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of an 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-2012-00314 in Executive Session on 25 October 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00314 was considered:

- Exhibit A. DD Form 149, dated 23 January 2012, w/atck.
- Exhibit B. Applicant's Master Personnel Records.