

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00330

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His character of service be changed from general, under honorable conditions (UHC) to honorable.

APPLICANT CONTENDS THAT:

He did not know at the time that his actions would constitute a crime.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant began his service on 29 May 79. On 9 Aug 83, his commander recommended he be discharged in lieu of trial by court-martial. The reasons for the discharge action are as follows:

Along with numerous letters of counseling and reprimand (LOC/LOR), during the summer of 1983, court-martial charges were preferred against the applicant for conspiracy to effect the fraudulent separation of his wife from the Air Force and for attempting to actually effect the fraudulent separation of his wife.

On 26 Jul 83, the applicant requested a discharge in lieu of trial by court-martial. On 10 Aug 83, his request was approved by his commander who sent the request to the discharge authority along with the recommendation the applicant's service be characterized as Under Other Than Honorable Conditions (UOTHC).

The discharge authority agreed and on 26 Aug 83, the applicant was furnished a UOTHC discharge in lieu of trial by court-martial after serving for 4 years, 2 months, and 28 days.

On 7 Aug 84, the applicant applied to the Air Force Discharge Review Board (DRB) to have his UOTHC discharge upgraded to honorable. On 26 Sep 85, the DRB ordered the applicant's character of service be changed to general, UHC.

Pursuant to the Board's request, the Federal Bureau Investigation (FBI) provided a copy of an Investigation Report, which is at

Exhibit C. On 14 Jun 12, a copy of the FBI report and a request for post-service information was forwarded to the applicant for review and comment within 30 days (Exhibit D). In response, the applicant provided a letter of reference (Exhibit E).

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 an error or injustice. While the applicant asserts he did not know at the time that the actions which led to his discharge were a crime, he has not provided evidence that corroborates his claim. In addition, in considering whether the relief he seeks should be granted, we note the AFDRB subsequently upgraded the characterization of his service from Under Other Than Honorable Conditions (UOTHC) to general (under honorable conditions). In our view, the prior action of the AFDRB provided the applicant what we would consider full and fitting relief and we find no error in the actions taken to effect his discharge and also do not find that it would be in the interest of justice to provide a further upgrade of his character of service on the basis of clemency. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting 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 this application.

The following members of the Board considered AFBCMR Docket Number BC-2012-00330 in Executive Session on 26 Jun 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00330 was considered:

- Exhibit A. DD Form 149, dated 1 Oct 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report.
- Exhibit D. Letter, AFBCMR, dated 14 Jun 12, w/atch.

Panel Chair