

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00445
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

He believes his discharge should be upgraded because of his age and lack of maturity at the time of discharge.

In support of the applicant's appeal, he provides copies of certificates of achievement.

The applicant's complete submission, with attachment, is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 22 August 1989.

The applicant was notified by his commander of his intent to recommend that he be discharged from the Air Force under the provisions of AFR 39-10. The specific reason was on or about 20 April 1991, the applicant wrongfully abused hashish and methamphetamine. For this misconduct he received an Article 15.

He was advised of his rights in this matter and after consulting with counsel, the applicant submitted a conditional waiver requesting a general discharge. 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. The applicant was discharged with a UOTHC discharge on 20 September 1991. He served 2 years and 29 days on active duty.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI), Clarksburg, West Virginia, provided an arrest record which is at Exhibit C.

On 21 June 2012, a copy of the FBI Report of Investigation and a request for information pertaining to his post-service activities was forwarded to the applicant for review and response 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. Additionally, due to the lack of evidence of a successful post-service adjustment and in view of the information contained in the FBI investigative report, we do not find it would be in the interest of justice to upgrade his discharge on the basis of clemency. 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-2012-00445 in Executive Session on 24 July 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00445 was considered:

- Exhibit A. DD Form 149, dated 3 December 2011.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report of Investigation.
- Exhibit D. Letter, AFBCMR, dated 7 June 2012.