RECORD OF PROCEEDINGS AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00478

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

His commander told him that she did not want a black man receiving the same benefits that she would be entitled to. His discharge was racially unjust and unfair.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 20 Aug 85 for a term of four years and was progressively promoted to the grade of sergeant. On 29 Dec 92, the applicant's commander notified him that she was recommending he be discharged from the Air Force for Misconduct - Pattern of Minor Disciplinary Infractions. The reasons for the action included two occasions of failure to go, two instances of violation of regulation, one instance of conduct unbecoming of a noncommissioned officer, for which he received five letters of reprimand, three letters of counseling, an unfavorable information file (UIF), and entry on the Control Roster.

The applicant acknowledged receipt of the notification of discharge and waived his rights to consult with legal counsel and to submit statements in his own behalf.

The base legal office reviewed the case and found it legally sufficient to support the applicant's general (under honorable conditions) discharge for Misconduct - Pattern of Minor Disciplinary Infractions.

On 29 Jan 93, the applicant was furnished a general (under honorable conditions) discharge in accordance with AFR 39-10,

Administrative Separation of Airmen, for a Pattern of Minor Disciplinary Infractions, and was credited with seven years, five months, and ten days of total active service.

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

On 7 Sep 12, a copy of the FBI report and a request for postservice information was forwarded to the applicant for review and response within 30 days. As of this date, no response has been received by this office (Exhibit D).

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.

Insufficient relevant evidence has 3. been presented to demonstrate the existence of an 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 process. Based on the available evidence of record, it appears the applicant's general (under honorable conditions) discharge for misconduct was consistent with the substantive requirements of the discharge regulation and within the discharge authority's discretion. He has provided no evidence which would lead us to believe his general (under honorable conditions) discharge was improper or contrary to the provisions of the governing directive. In the interest of justice, we considered upgrading the discharge based on clemency; however, in the absence of any evidence related to his activities since leaving the service, we are not inclined to recommend granting the relief sought on that basis. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

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-2012-00478 in Executive Session on 31 Oct 12, under the provisions of AFI 36-2603:

Panel Chair Member Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 20 Jan 12. Exhibit B. Applicant's Master Personnel Records. Exhibit C. FBI Investigative Report. Exhibit D. Letter, AFBCMR, dated 7 Sep 12, w/atch.

Panel Chair