

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00884

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her General (Under Honorable Conditions) discharge be upgraded to Honorable.

APPLICANT CONTENDS THAT:

Minor allegations resulted in her premature release from military service. The two negligible violations of the military standards in question, riding in a POV and being drunk and disorderly, are offenses that could have been rehabilitated instead of hastily pursuing discharge proceedings. The untimely discharge resulted in the loss of veteran's benefits.

In Mar 94, she joined the Army National Guard and served for three years, earning promotion to E-4. She received letters of appreciation and was Honorably discharged. As a quadriplegic since 2002, rehabilitation services are vital to her achieving independence.

In support of her appeal, the applicant provides copies of her DD Form 214, *Certificate of Release or Discharge from Active Duty*, a DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, and information from her Air Force and Army records.

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

STATEMENT OF FACTS:

The applicant initially enlisted in the Air Force on 22 May 89.

On 15 Nov 89, the applicant's First Sergeant entered a Memo for the Record into her official file stating he had counseled her for saying she wished to be discharged from the Air Force, and if she could not receive an entry-level separation she "would do her job, what's expected, do just enough to get by." In

addition, she stated she didn't like the military style of life and could not adapt.

On 12 Dec 89, the applicant's commander notified her he was recommending her discharge from the Air Force for minor disciplinary infractions. She consulted with counsel, and did not submit statements in her own behalf. The reasons for the discharge action were:

1. On 2 Nov 89, she was notified she would not be recommended for promotion to Airman (E-2).

2. On 24 Oct 89, she was disenrolled from a Morse Code Interceptor training course by the course commander, pending further disciplinary action.

3. On 24 Oct 89, she received an Article 15, *Record of Nonjudicial Punishment Proceedings* under the Uniform Code of Military Justice (UCMJ), for being drunk and disorderly.

4. On 23 Oct 89, she received a Letter of Reprimand for riding in a Privately Owned Vehicle (POV) while in Phase 1 of the Military Training Standards for Enlisted (MTSE) program.

On 15 Dec 89, her commander recommended her for a General discharge for minor disciplinary infractions. On 8 Jan 90, the case was found to be legally sufficient and, on 17 Jan 90, the discharge authority concurred with the commander's recommendation and ordered the applicant be furnished a General discharge without probation or rehabilitation.

On 24 Jan 90, the applicant was furnished a General (Under Honorable Conditions) discharge for minor disciplinary infractions and was credited with serving eight months and three days of active service.

On 13 Dec 90, an Air Force Discharge Review Board (AFDRB) considered and denied the applicant's appeal to upgrade her discharge to Honorable. The AFDRB found neither the evidence of record nor that provided by the applicant substantiated an inequity or impropriety which would justify a change of discharge.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI) provided a copy of an Investigative Report indicating they were unable to locate an arrest record on the basis of the information provided.

On 13 Sep 12, a request for post-service information was forwarded to the applicant for review and comment within 30 days. (Exhibit C)

In response, the applicant submitted an expanded statement outlining her achievements since separating from the Air Force

and copies of two diplomas, two character references, and two receipts showing her donations to charitable causes.

The applicant's complete response, with attachments, is at 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.

3. We have thoroughly reviewed the circumstances surrounding the applicant's discharge and find no impropriety in the characterization of service. Considered alone, we conclude the discharge proceedings were proper and the characterization of the discharge was appropriate to the existing circumstances. Consideration of this Board, however, is not limited to the events which precipitated the discharge. Further, we may base our decision on matters of equity and justice, rather than simply on whether rules and regulations which existed at the time were followed. The Board took note of the relatively minor nature of the incidents which precipitated the applicant's discharge, her subsequent service in and honorable discharge from the Army National Guard, and her contributions to the civilian community over the 20 plus years since her discharge from the Air Force. Under our broader mandate and after careful consideration of all the facts and circumstances of the applicant's case, we believe it would be an injustice for her to continue to suffer the adverse effects of the discharge. In the interest of justice, we therefore conclude the applicant's discharge should be upgraded on the basis of clemency.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that on 24 January 1990, she was honorably discharged and furnished an Honorable Discharge certificate.

The following members of the Board considered AFBCMR Docket Number BC-2012-00884 in Executive Session on 23 Oct 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

All members voted to correct the records as recommended. The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00884 was considered:

- Exhibit A. DD Form 149, dated 29 Feb 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFBCMR, dated 13 Sep 12.
- Exhibit D. Letter, Applicant, dated 1 Oct 12, w/atchs.

Panel Chair