

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00891

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

His General discharge from the Air Force is unjust. It has been 24 years since his discharge. He made mistakes during his time on active duty, and he takes full responsibility for those actions. He offers no excuse for those times he was justly punished. However, he was unjustly punished at times because he went straight into On-the-Job-Training (OJT) after Basic Training rather than to a Technical School, so certain people felt he had not "paid his dues." He was young and intimidated by rank, and unsure of what to do because of the rank of the people involved who he felt were punishing him unjustly. As a result, he took the discharge they offered him and did not question their actions. The day he was discharged, he was humiliated, embarrassed, and felt like he had let the Air Force, his family, his friends, and the country down. He considers his service to the country to be honorable. He has been married for almost 20 years; has 2 children, age 14 and 10; and, started and has run his own business for 12 years. The Air Force is one of the main reasons he is still married and has a business today.

In support of his request, the applicant provides an expanded statement.

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

STATEMENT OF FACTS:

The applicant initially entered active duty on 15 May 1985.

On 22 Mar 88, the applicant's commander notified him that he was recommending the applicant for discharge for Minor Disciplinary Infractions without probation or rehabilitation. The reasons for this recommendation were as follows:

1. On 6 Jan 86, he failed to go to a scheduled medical appointment.

2. In Mar 86, he failed to go to a scheduled dental appointment.

3. On 4 Dec 86, he parked in a no parking area, and operated a motor vehicle without a license or military ID card in his possession.

4. On 23 Dec 86, he failed to go to a scheduled optometry appointment.

5. On 14 Jan 87, he failed to comply with dormitory standards, for which he was furnished a Letter of Reprimand (LOR).

6. On 24 Jan 87, he damaged government property through negligence, for which he was furnished an LOR.

7. On 31 Jul 87, he was derelict in his duty, for which he received non-judicial punishment (NJP) under Article 15 of the Uniform Code of Military Justice (UCMJ). As punishment, he received 30 days of correctional custody, a suspended reduction to the grade of Airman, and a suspended forfeiture of \$150.00 a month for two months.

8. On 18 Aug 87, he violated Correctional Custody rules of conduct, for which he was furnished an LOR.

9. On 26 Feb 88, he failed to go to a scheduled social actions appointment.

10. On 13 Feb 88, he operated a motor vehicle on base while drunk, for which he received NJP. As punishment, the applicant was reduced in grade to Airman Basic.

On 28 Mar 88, the applicant acknowledged receipt of the discharge notification, waived his rights to consult with counsel and to submit statements in his own behalf.

On 31 Mar 88, the case was reviewed and determined to be legally sufficient and, on 4 Apr 88, the discharge authority directed he be discharge with a General discharge.

On 6 Apr 88, the applicant was furnished a General (Under Honorable Conditions) discharge for Misconduct—Pattern of Minor Disciplinary Infractions, and was credited with 2 years, 10 months, and 22 days of active service.

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.

A request for post-service information was forwarded to the applicant on 24 Aug 12. In response, the applicant provides an expanded statement in which he reiterates many of the same points made in his initial statement. He worked long hard hours while in the Air Force, but chose poorly at times when he was off duty. He worked with the Special Olympics while in the Air Force and since his separation, he took college classes and spent almost 15 years as a software designer; started his own lawn care business; coached many children in sports; is very active in his church; and is proud to have served in the Air Force. In support of his response, the applicant provides copies of several supporting statements (Exhibit C).

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. Sufficient relevant evidence has been presented to demonstrate the existence of an injustice. 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 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. 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. Based on the evidence presented by the applicant, it appears the applicant has led a stable and productive life and there is no evidence he has had any serious involvement of a derogatory nature since his separation from the Air Force. Under our broader mandate and after careful consideration of all the facts and circumstances of the applicant's case to include his professional accomplishments and contributions to his community since leaving the service, we believe it would be an injustice for him to continue to suffer the adverse effects of the discharge. Therefore, in the interest

of justice, we recommend the applicant's discharge be upgraded to Honorable 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 on 6 April 1988, he was honorably discharged and furnished an Honorable Discharge Certificate.

The following members of the Board considered AFBCMR Docket Number BC-2012-00891 in Executive Session on 28 Sep 10, 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-2012-00891 was considered:

- Exhibit A. DD Forms 149, dated 8 Mar 12, w/atch.
- Exhibit B. Applicant's Available Personnel Records.
- Exhibit C. Letter, AFBCMR, dated 24 Aug 12.
- Exhibit D. Letter, Applicant, dated 8 Sep 12, w/atchs.

Panel Chair