

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01159

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Under Other Than Honorable Conditions (UOTHC) discharge be changed to general (under honorable conditions).

APPLICANT CONTENDS THAT:

He respectfully makes his request for an upgrade to his character of service based on leniency and the fact he has been a model citizen, a responsible husband and father, and gainfully employed for the past 30 plus years. He was young and ignorant of his childish ways at the time of his discharge.

In support of his request, the applicant provides a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty*.

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

STATEMENT OF FACTS:

The applicant began his military service on 14 Feb 72.

On 7 Nov 74, the applicant's commander notified him of his intent to recommend his discharge for misconduct. The reason for the action was the applicant's arrest by civil authorities on 2 Jul 74 for unlawful possession of a controlled dangerous substance, to wit marijuana. He pleaded guilty and was sentenced to 30 days in jail. He was also administered an Article 15 on 29 Nov 73 for wrongfully having in his possession .11 grams, more or less, of marijuana. Furthermore, he was also confined in South Carolina from 25 Jul 74 to 20 Sep 74 facing charges of bank fraud and embezzlement from a Federal Credit Union; conspiracy; illegal manufacture, use, possession, or sale of emblems or insignia, forgery of U.S. Treasury check, and theft; and forgery and cashing of U.S. Treasury checks.

On 7 Nov 74, the applicant acknowledged receipt of the action and elected to have his case heard by an administrative discharge board. However, on 21 Nov 74, the applicant elected to waive his rights to said Board and elected to submit statements in his behalf.

On 11 Dec 74, the case file was found legally sufficient and the discharge authority concurred with the commander's recommendation on 12 Dec 74.

On 20 Sep 74, the applicant was furnished a UOTCH discharge and credited with 2 years, 7 months, and 14 days of total active service, which included 79 days of lost time for the period 1 Jul 74 through 20 Sep 74.

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 27 Aug 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 indicates he only tried to fit in with the airmen he was serving with as they were from cities around the country and he was considered a slow small-town country boy. He admits to his ignorance of their ways. In support of his request, the applicant provides a supporting statement from his pastor.

The applicant's complete response, with attachment, is at 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. 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 Under Other Than Honorable Conditions (UOTHC) 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 UOTHC 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, we do not

find the evidence presented is sufficient to compel us to recommend granting the relief sought on that basis. Therefore, in the absence of evidence to the contrary, we conclude that no basis exists to recommend upgrading the applicant's UOTHC discharge.

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-2012-01159 in Executive Session on 28 Sep 12, under the provisions of AFI 36-2603:

Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 23 Mar 12, w/atch.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report.
- Exhibit D. Letter, AFBCMR, dated 27 Aug 12, w/atch.
- Exhibit E. Letter, Applicant, dated 31 Aug 12, w/atch.

Chair