

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01195

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His under other than honorable conditions discharge be upgraded.

APPLICANT CONTENDS THAT:

He met a young lady at the Airman's Club on base. She had a fake dependent identification card. He did not know the identification card was a fake. He was three years older than she was. They were married in December 1991 and divorced in March 1996. They have three children and eight grandchildren.

The applicant submits no supporting documentation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 20 August 1984. On 31 December 1986, the applicant's commander preferred charges against him for violation of Article's 109, 120 and 134, Uniform Code of Military Justice. Specifically, the applicant was charged with carnal knowledge, wrongfully damaging property of another and making a false statement. The applicant requested a discharge in lieu of court-martial; his commander and the staff judge advocate concurred with the request. On 12 February 1987, the commander directed the applicant be separated with an under other than honorable conditions discharge. He was credited with 2 years, 6 months and 13 days of active duty service.

On 27 February 1989 the Air Force Discharge Review Board denied the applicant's request to upgrade his discharge.

Pursuant to the Board's request, the Federal Bureau of Investigation, Clarksburg, West Virginia provided a copy of an investigation report (Exhibit C).

On 28 August 2012, the FBI investigation and a request for post-service information were forwarded to the applicant for 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.
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 during the discharge process. 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, or unduly harsh. 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.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that 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-2012-01195 in Executive Session on 16 October 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-01195 was considered:

- Exhibit A. DD Form 149, dated 28 Mar 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Investigative Report.
- Exhibit D. Letter, AFBCMR, dated 28 Aug 12.

Panel Chair