

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01698  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflect time served in items 12c - Net Active Service This Period; 12d - Total Prior Active Service; 12e - Total Prior Inactive Service; and 12f - Foreign Service.

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APPLICANT CONTENDS THAT:

He believes time served should be added to items 12c through f of his DD Form 214.

In support of the applicant's appeal, he provides a copy of his DD Form 214.

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

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 26 September 1979.

Prior to entering the service, the applicant failed to indicate on his Statement of Personal History that he pled guilty to and was found guilty of petty theft on 2 October 1978 for which he was sentenced to 30 days confinement and fined \$250.00. Additionally, he failed to indicate his plea of guilty to and conviction of the charge of prowling on 2 October 1978 for which he was fined \$100.00.

On 28 March 1980, the applicant was discharged in the grade of airman basic with a general (under honorable conditions) discharge under the provisions of AFM 39-12 (Misconduct, Fraudulent Enlistment).

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AIR FORCE EVALUATION:

AFPC/DPAPP recommends denial. DPAPP states a review of the applicant's master personnel records and documentation submitted failed to provide any documents that substantiate foreign service time. The applicant only served six months on active duty with no foreign service time.

The DPAPP complete evaluation is at Exhibit C.

AFPC/DPSIPV recommends denial. DPSIPV states the applicant was discharged for misconduct, fraudulent enlistment. The applicant did not disclose a civilian conviction prior to entering active duty.

In accordance with AFI 36-3202, Separation Documents, Table 4, note 3, "Time spent in an enlistment that is determined to be fraudulent and has been specifically terminated by reason of fraud is not creditable service" and is not included on the DD Form 214. Also, the DoD Financial Management Regulation, Volume 7A, Chapter 1, paragraph 010102 - (Service Not Creditable) A.1 states "The time served in an enlistment that is terminated, voided, or invalidated as fraudulent" is not creditable for pay.

Since the applicant's enlistment was terminated due to fraud the time he served on active duty is not creditable service.

The DPSIPV complete evaluation, with attachments, is at Exhibit D.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 26 July 2012, copies of the Air Force evaluations were forwarded to the applicant for review and response within 30 days. As of this date, no response has been received by this office.

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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. The

applicant's contentions are duly noted; however, we agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of an 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.

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The following members of the Board considered AFBCMR Docket Number BC-2012-01698 in Executive Session on 25 October 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-01698 was considered:

- Exhibit A. DD Form 149, dated 2 April 2012, w/atck.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPAPP, dated 19 June 2012.
- Exhibit D. Letter, AFPC/DPSIPV, dated 26 June 2012, w/atchs.
- Exhibit E. Letter, SAF/MRBR, dated 26 July 2012.