

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02113
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His general (under honorable conditions) discharge be upgraded to honorable.

APPLICANT CONTENDS THAT:

A background investigation by the U.S. Marshals Service reports an honorable.

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:

On 23 Oct 90, the applicant entered active duty in the Regular Air Force.

On 25 Feb 92, the applicant was notified by his squadron commander that he was recommending his discharge from the Air Force for misconduct. The basis for the proposed action were: 1) On 3 Dec 91, he received a Letter of Reprimand (LOR) and Unfavorable Information File (UIF) for being disrespectful to a senior noncommissioned officer; 2) On 23 Jan 92, he received a LOR and UIF action for being disrespectful to a superior commissioned officer; and (3) On 21 Feb 92, he received an Article 15 for disobeying a lawful order not to make contact with a certain female at her residence.

On 28 Feb 92, the applicant acknowledged receipt of the notification of discharge and, after consulting with legal counsel, submitted a statement in his own behalf.

The base legal office reviewed the case and found it legally sufficient to support separation and recommended that he receive a general discharge without probation and rehabilitation.

On 9 Mar 92, the applicant was discharged under the provisions of AFR 39-10, *Administrative Separation of Airmen*, for Misconduct-Pattern of Conduct Prejudicial to Good Order and Discipline, and received a general discharge. He served on active duty for a period of 1 year, 4 months and 17 days.

Pursuant to the Board's request, the Federal Bureau of Investigation (FBI) provided a copy of an Investigative Report, which is at Exhibit C.

On 25 Sep 12, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days. At the same time, the AFBCMR staff offered the applicant an opportunity to provide information pertaining to his activities since leaving the service (Exhibit D). As of this date, a response has not been received by this office.

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, 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 service was contrary to the provisions of the governing regulation, unduly harsh, or disproportionate to the offenses committed. 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 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 Docket Number BC-2012-02113 in Executive Session on 15 Nov 12, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 14 May 12, w/atch.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. FBI Report of Investigation, dated 6 Jun 12.
Exhibit D. Letter, SAF/MRBC, dated 25 Sep 12.

Panel Chair