

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02180
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His under other than honorable conditions discharge be upgraded to general.

APPLICANT CONTENDS THAT:

He was only absent without leave for two days. He missed his flight and reported it to his unit.

He was not a bad soldier [sic] and does not deserve this type of discharge.

In support of his request, the applicant provides copies of character references.

His complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

On 12 Dec 1978, the applicant enlisted in the Regular Air Force.

On 10 Jul 1979, his commander notified him he was recommending he be discharged under the provisions of AFM 39-12, *Separation for Unsuitability, Unfitness, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation*. The specific reasons for this action were:

On or about 1 Feb 1979, he failed to go to his appointed place of duty in violation of Article 86, for which he received a Letter of Reprimand (LOR).

On 1 Feb 1979 and 21 Mar 1979, he failed to maintain his room in accordance with squadron standards for which he was counseled.

On 15 Mar 1979, he wrongfully had in his possession some quantity of marijuana in violation of Article 134, UCMJ, for which he received an Article 15.

On 19 Apr 1979, he was administratively disenrolled from course number 3ABR91530 due to drug involvement.

On 3 May 1979, he wrongfully had in his possession some quantity of marijuana, for which he received an Article 15.

On 21 May 1979, without authority, he did absent himself from his place of duty and remained absent until 22 May 1979 for which he received a LOR.

On 10 Jul 1979, the applicant acknowledged receipt of the discharge notification.

On 11 Sep 1979, the Staff Judge Advocate found the discharge legally sufficient and the discharge authority approved his discharge.

On 19 Sep 1979, the applicant was discharged from the Air Force, with a under other than honorable conditions discharge. He served nine months and six days of total active service.

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

On 18 Sep 2012, a copy of the FBI report was forwarded to the applicant for review and comment within 30 days (Exhibit D), as of this date, no response has 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, we find no evidence of an error or injustice that occurred in the discharge processing. 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, 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 in this application.

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 this application in Executive Session on 29 Nov 2012, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered in AFBCMR BC-2012-02180:

- Exhibit A. DD Form 149, dated 6 May 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report, dated 29 June 2012.
- Exhibit D. Letter, AFBCMR, 18 Sep 2012, w/atc.

Panel Chair