

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01628
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His under other than honorable conditions (UOTHC) discharge be upgraded to honorable.

APPLICANT CONTENDS THAT:

1. He made some bad choices more than 45 years ago, he cannot change the past; however, he hopes the Air Force and his country can forgive him.

2. He has not been in any trouble since his discharge. He has been self-employed since 1981 in a business that prides itself in honesty and integrity.

In support of his request, the applicant provides a copy of DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*.

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

STATEMENT OF FACTS:

On 14 Oct 65, the applicant enlisted in the Regular Air Force.

On or about 6 Oct 66, until on or about 6 Jan 67, the applicant wrongfully had in his possession with intent to deceive a DD Form 2AF, *Identification Card* issued to W----- M, then knowing the same to be unauthorized in violation of Article 134, Uniform Code of Military Justice (UCMJ). For this offense, he received an Article 15, UCMJ, suspended reduction to the grade of airman third class and 14 days extra duty.

On 8 May 67, the applicant was notified of his commander's intent to recommend he be discharged from the Air Force under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Personal Abuse of Drugs; Resignation or Request for Discharge for the Good of the Service; and Procedures for the Rehabilitation Program*. The applicant acknowledged receipt of

the notification of discharge. The specific reason for the proposed action was:

On or about 20 Feb 67, the applicant was convicted of forgery by the District Court, Criminal Section, Alexandria, Louisiana. For this offense, he was sentenced to the Louisiana State Penitentiary at Angola, Louisiana, to serve at hard labor, for a period of three years, which was suspended. He was placed on active probation, under the supervision of the Director of Probation and Parole for a period of three years.

After consulting with counsel, the applicant waived his right to a hearing before an administrative discharge board and to submit a statement in his own behalf.

On 11 Jul 67, the Staff Judge Advocate reviewed the case and found it legally sufficient to support discharge and recommended to the 834th Combat Support Group commander (834 CSG/CC) that the applicant receive a general (under honorable conditions) discharge.

On 13 Jul 67, the 834 CSG/CC reviewed the case file and recommended the 9th Air Force commander (9 AF/CC) approve the applicant's general (under honorable conditions) discharge with the offer of probation and rehabilitation.

On 20 Jul 67, the 9 AF/CC reviewed the case file; however, he disagreed with the 834 CSG/CC recommendation to discharge the applicant with a general (under honorable conditions) discharge.

On 28 Jul 67, the applicant was discharged with service characterized as under other than honorable conditions (UOTHC) in the grade of airman second class. He served 1 year, 7 months and 18 days of total active service.

Pursuant to the Board's request, the Federal Bureau of Investigations (FBI) Clarksburg, WV, states they were unable to identify an arrest record on the basis of the information furnished (Exhibit C).

On 29 Nov 12, the applicant was offered an opportunity to provide information pertaining to his activities since leaving the service. In response to the request the applicant provided a personal letter. The applicant states he worked at Motor Parts and Bearings in 1977. After driving 30 miles one way to work for several years, he was given the opportunity to start his own business in 1981. He was saved in 1987; was ordained a deacon in his home church and has done mission work for Blackaby Ministries International.

The applicant's complete response, with attachments, 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. We have thoroughly reviewed the circumstances surrounding the applicant's discharge and find no impropriety in the characterization of service. Considered alone, we conclude the discharge proceedings were proper and characterization of the discharge was appropriate to the existing circumstances. Consideration of this Board, however, is not limited to the events which precipitated the discharge. Further, we may base our decision on matters of equity and justice, rather than simply on whether rules and regulations which existed at the time were followed. After careful consideration of the applicant's request and the evidence of record, we find sufficient relevant evidence has been presented to demonstrate the existence of an injustice to warrant upgrading the characterization of the applicant's discharge to general (under honorable conditions) on the basis of clemency. In this respect, we note that in support of his request, the applicant has provided a letter discussing his honorable character and notable achievements in the over 45 years since his discharge, to include gainful employment and opening his own business. It appears the applicant has successfully transitioned to civilian life and the characterization of his discharge as UOTHC no longer serves a useful purpose. Moreover, we find absolutely no evidence of any derogatory involvement with any civil authorities in the over 45 years since his discharge. Additionally, based on the recommendations from his unit and wing commander, it was their intent that he receive a general discharge; however, the discharge authority disagreed. Based on a totality of the evidence before us, we find it would be unjust for him to continue to endure the effects of the stigma that is attached to a UOTHC discharge. Therefore, in view of the above, we deem the interest of justice can best be served by removing this blemish from his life and upgrading his discharge to general (under honorable conditions) on the basis of clemency. We considered upgrading his discharge to honorable; however, we do not believe that an upgrade to a fully honorable discharge is warranted. Accordingly, we recommend that his records be corrected to the extent indicated below.

THE BOARD DETERMINES THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 28 July

1967, he was discharged with service characterized as general (under honorable conditions) discharge certificate.

The following members of the Board considered AFBCMR Docket Number BC-2012-01628 in Executive Session on 15 Jan 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 8 May 12, w/atc.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Negative FBI Response, dated 21 May 12.
- Exhibit D. Letter, SAF/MRBC, dated 29 Nov 12.
- Exhibit E. Letter, Applicant, dated 14 Dec 12.

Panel Chair