

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02306
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

The applicant makes no contentions.

In support of his appeal, the applicant provides copies of his DD Form 214, *Report of Separation from the Armed Forces of the United States*, a Fraternal Order of Police memorandum, and various other documents associated with his request.

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

STATEMENT OF FACTS:

On 28 Apr 50, the applicant enlisted in the Regular Air Force, for a period of four years.

On 26 Sep 50, the applicant received a summary court-martial, for sleeping on post. His punishment consisted of confinement at hard labor for 15 days and forfeiture of \$35.00 pay.

On 30 Apr 52, the applicant while on duty as an Air Policeman, delivered alcoholic beverages to a crew member onboard USNS AKL#17. His punishment consisted of an Article 15, Uniform Code of Military Justice (UCMJ) and reduction in grade to airman third class.

On or about 31 Jul 52, the applicant failed to obey a lawful order, in violation of Article 92, UCMJ. His punishment consisted of an Article 15, UCMJ and reduction in grade to airman basic.

On 24 Jul 53, the applicant received a special court-martial, for sleeping on post. His punishment consisted of confinement at hard labor for four months and forfeiture of \$60 pay per month for four months. Only so much of the sentence as provided

for confinement at hard labor for three months and forfeiture of \$50 pay per month for three months, was approved and duly executed.

On 4 Sep 53, the applicant was discharged under the provisions of AFR 39-14, *Separation for the Convenience of the Government*, with service characterized as general (under honorable conditions). He was credited with 3 years, 2 months and 26 days of active duty (including 44 days of lost time due to confinement at hard labor).

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).

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. Due to the limited records available and based upon the presumption of regularity in the conduct of governmental affairs, we must assume that the applicant's discharge was proper and in compliance with appropriate directives. We find no evidence of error or injustice in the available records and without evidence to support the applicant's appeal; we find no basis upon which to favorably consider this application. In view of the foregoing, we conclude that no basis exists upon which to recommend favorable action on his request. In the interest of justice, we considered upgrading the discharge based on clemency; however, we do not find the evidence presented is sufficient 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.
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THE BOARD DETERMINES THAT:

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

The following members of the Board considered AFBCMR Docket Number BC-2012-02306 in Executive Session on 15 Jan 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 26 May 12, w/atchs.
- Exhibit B. Available Personnel Records.
- Exhibit C. Negative FBI Response, dated 3 Jul 12.

Panel Chair