

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02733
COUNSEL:
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

The circumstances surrounding his discharge were unjust. He admittedly fell asleep on duty but strongly feels the punishment does not fit the crime. He was too young to understand the injustice perpetrated against him and regrets having this blemish on his record.

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

STATEMENT OF FACTS:

The applicant's military personnel records were destroyed in the fire at the National Personnel Records Center (NPRC) in 1973. Therefore, the facts surrounding his separation cannot be verified.

Data extracted from the applicant's reconstructed record reflects he enlisted in the Regular Air Force on 5 Jan 60, and was discharged under the provisions of AFR-39-17 (Unfitness), with service characterized as under other than honorable conditions (UOTHC) in the grade of airman basic and issued a DD Form 258AF, *Undesirable Discharge Certificate*. He served 2 years, 1 month and 17 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 23 Jan 13, the AFBCMR staff offered the applicant an opportunity to provide information pertaining to his activities since leaving the service. In response to the request the applicant's counsel provided a personal letter indicating the applicant was a model "soldier," notwithstanding, the mistake he

admittedly made falling asleep on duty. He has worked hard all his life. He has been a successful member of every community he lived in, giving back to the community his talent and time. All of his hard work and accomplishments were made without his knowledge of the less than honorable discharge he received as a 19 year old. He has proven himself to be a responsible and productive member of society.

Counsel's complete submission, 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 the 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 50 years since his discharge, to include gainful employment and opening his own businesses. 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 50 years since his discharge. 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 RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 16 March 1962, he was discharged with service characterized as General (under honorable conditions).

The following members of the Board considered Docket Number BC-2012-02733 in Executive Session on 7 Mar 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 20 Jun 12, w/atchs.
- Exhibit B. Applicant's Reconstructed Personnel Record.
- Exhibit C. Negative FBI Response, dated 8 Aug 12.
- Exhibit D. Letter, SAF/MRBC, dated 23 Jan 13.
- Exhibit E. Letter, Applicant, dated 26 Feb 13, w/atchs.

Panel Chair