

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02970
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

There is no error in his record; however, he is now age 60 and unemployed for the first time. Having his discharge upgraded would be beneficial to obtaining a job or benefits. He has raised two wonderful children and has been a contributing member of society.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant is a former member of the Regular Air Force who entered active duty on 18 December 1972.

On 19 May 1972, the applicant pled guilty and was convicted by a civilian court of receiving stolen property of a value in excess of \$100. As a result, he was sentenced to correctional custody for a period of not more than five years and recommended to receive treatment for narcotics addiction.

On 28 July 1972, his commander recommended the applicant for an undesirable discharge for misconduct because of his civil court disposition. The applicant requested a hearing but waived his right to submit statements in his own behalf.

A discharge board of officers was convened on 19 September 1972 to determine whether the applicant should be discharged. After considering the evidence, the board recommended the applicant be administratively discharged with an undesirable discharge under the provisions of Air Force Manual 39-12, paragraph 2-25. The discharge authority approved the board's findings and recommendation and directed the applicant be discharged with an undesirable discharge.

The applicant was discharged from active duty in the grade of airman first class (E-3) effective 17 October 1972 with an UOTHC discharge. He served 1 year, 3 months, and 14 days on active duty with 171 days lost time.

On 26 June 1973, the Discharge Review Board (DRB) considered and denied the applicant's request to upgrade his discharge.

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

On 24 January 2013, the applicant was given an opportunity to submit comments about his post service activities and in response to the FBI Report (Exhibit D). In response, the applicant provided a personal statement and resume (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. 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

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 AFBCMR Docket Number BC-2012-02970 in Executive Session on 4 April 2013, under the provisions of AFI 36-2603:

_____, Panel Chair
_____, Member
_____, Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-02970 was considered:

- Exhibit A. DD Form 149, dated 25 Jun 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. FBI Report.
- Exhibit D. Letter, AFBCMR, dated 24 Jan 13, w/atchs.
- Exhibit E. Letter, Applicant, not dated, w/atc.

Panel Chair