



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

AUG 31 1998

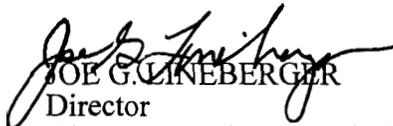
Office of the Assistant Secretary

AFBCMR 97-01994

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that on 28 June 1982, he was discharged with service characterized as general (under honorable conditions).


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS
AUG 3 11998

IN THE MATTER OF:

DOCKET NUMBER: 97-01994

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His discharge be upgraded to honorable or general, under honorable conditions.

APPLICANT CONTENDS THAT:

His under other than honorable conditions (UOTHC) discharge is something he is very ashamed of now. He hasn't applied for employment at companies which might request his military records for fear someone will judge him now for what he was then. Applicant states that he does not want to hide the fact that he was in the service - he still believes serving his country was an honor and privilege. He is sure he abused this privilege to some degree, but 14 years is a long time with something like this over you head.

In support of his appeal, applicant submits a copy of his DD Form 214, a letter and certificate of training from a Florida county school and, a certificate of membership in Phi Theta Kappa Society.

Applicant's submission is attached at Exhibit A

STATEMENT OF FACTS:

Applicant enlisted in the Regular Air Force on 12 December 1978 for a period of four (4) years in the grade of airman basic.

Applicant was promoted to the grade of airman (E-2) on 12 June 1979 and subsequently to the grade of airman first class (E-3) on 12 December 1979. He was demoted to the grade of airman basic on 9 December 1981 by an Article 15 action.

On 1 February 1982, while serving in the grade of airman basic, applicant's Squadron Commander notified him (applicant) that he was initiating action to discharge applicant from the U. S. Air Force because of frequent involvement of a discreditable nature

with military authorities. A discharge Under Other than Honorable Conditions (UOTHC) was recommended. The reasons cited by the Squadron Commander were: (a) On 21 February 1980 applicant received a Letter of Reprimand for failing to report to his appointed place of duty. (b) On 24 March 1980 he received an Article 15 for failing to go at the time prescribed to his appointed place of duty. Punishment was a forfeiture of \$100.00, however the forfeiture in excess of \$50.00 was suspended until 1 September 1980. (c) On 13 February 1981 applicant received an Article 15 for wrongfully having possession of some quantity of marijuana and wrongfully appropriating kitchen equipment valued at \$217.00. Punishment was suspended reduction to Airman and forfeiture of \$120.00 per month for two months. (d) On 19 March 1981 applicant was entered on the control roster for failing to maintain the standards required of a military member and received two Article 15 actions within a one-year period. (e) On 9 December 1981 he received an Article 15 for improper/illegal use of drugs. Punishment was reduction to Airman Basic and forfeiture of \$60.00 per month for two months.

Applicant acknowledged receipt of the Notification of Discharge action on 1 February 1982.

Applicant received an additional Article 15 on 1 March 1982 for failing to obey a lawful order.

On 23 March 1982, applicant was notified of an Administrative Discharge Board hearing, which convened on 30 March 1982 at [REDACTED]

The Administrative Discharge Board (ADB) found that applicant had been frequently involved with civil or military authorities in matters of a discreditable nature as evidenced by the reasons stated by the Squadron Commander. However, the ADB deleted the applicant's placement on the Control Roster for having received two Article 15 actions within a one-year period.

The final legal review by the Staff Judge Advocate (SJA), [REDACTED] Air Force, dated 10 June 1982, stated that the record of proceedings reveals no errors or irregularities which materially prejudice the substantial rights of the applicant.

Applicant was discharged on 28 June 1982 under the provisions of AFM 39-12 (Misconduct-Frequent Involvement of a Discreditable Nature) with an Under Other than Honorable Conditions (UOTHC) discharge. He served 3 years, 6 months and 17 days of active military service.

Pursuant to the request of the Board, the Federal Bureau of Investigation, Washington, D. C., indicated that, on the basis of data furnished, they are unable to locate an arrest record.

AIR FORCE EVALUATION:

The Military Personnel Management Specialist, HQ AFPC/DPPRS, states that record of the final discharge action taken by the discharge authority is not on file in the applicant's master personnel record, however, the DD Form 214, Certificate of Release or Discharge From Active Duty, on file indicates applicant was discharged effective 28 June 1982 with a UOTHC discharge. AFPC/DPPRS states that there are no errors or irregularities in the processing for separation causing an injustice to the applicant. The discharge was consistent with the procedural and substantive requirement of the discharge regulation and was within the discretion of the discharge authority. They recommend the applicant's request be denied.

A copy of the Air Force evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant submitted responses and attaches a resume of professional experience and education, letters of character reference and, grade transcript from a Junior College.

A copy of the applicant's response, with attachment, is attached 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. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. It appears that responsible officials applied appropriate standards in effecting the applicant's separation, and we do not find persuasive evidence that pertinent regulations were violated or that the applicant was not afforded all the rights to which entitled at the time of discharge. However, after reviewing the supporting documentation submitted with this application, and noting the incidents that led to the applicant's separation, which were relatively minor, we feel that under the circumstances the under other than honorable conditions (UOTHC) discharge he received was somewhat harsh. We also note that at the applicant's administrative discharge board hearing, there were several individuals who felt that the UOTHC discharge was inappropriate based on their knowledge of the applicant and, would not mind having the applicant work for them again.

Although the applicant requested that he receive an honorable or general discharge, we do not feel an honorable discharge would be appropriate. However, we do believe that a general under honorable conditions discharge would be more appropriate as a matter of equity and on the basis of clemency, and recommend his discharge be upgraded to general. Therefore, we recommend 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 28 June 1982, he was discharged with service characterized as general (under honorable conditions).

The following members of the Board considered this application in Executive Session on 23 July 1998, under the provisions of AFI 36-2603:

Ms. Martha Maust, Panel Chair
Mr. Robert W. Zook, Member
Mr. Kenneth L. Reinertson, Member

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

- Exhibit A. DD Form 149, dated 30 Sep 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPRS, dated 23 Oct 97.
- Exhibit D. Letter, AFBCMR, dated 10 Nov 97.
- Exhibit E. Applicant's Letter, dated 2 Dec 97, w/atchs.


MARTHA MAUST
Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS



OCT 23 1997

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPRS
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records [REDACTED]

The applicant, while serving in the grade of airman basic, was discharged from the Air Force 28 Jun 82 under the provisions of AFM 39-12 (Misconduct-Frequent Involvement of a Discreditable Nature) with an under other than honorable conditions discharge. He served 03 years 06 months and 17 days total active service.

Requested Action. The applicant is requesting upgrade of his discharge to honorable. He states he would accept a general (under honorable conditions).

Basis for Request. Applicant claims his under other than honorable discharge was inequitable. Through his counsel he asked for a court-martial in light of information that he would be charged with various offenses he knew not to be true. He states the under other than honorable conditions discharge was excessive. He claims he signed a waiver to be released from the Air Force long before counsel advised him that he risked such a discharge.

Facts. Applicant was notified by his commander on 01 Feb 82, that he had initiated involuntary discharge action against him for frequent involvement of a discreditable nature with military authorities. The commander indicated the action was being taken because during the period of 21 Feb 80 and 09 Dec 81 he had received three **Art** 15s for failure to go, possession of marijuana and for wrongfully appropriating kitchen equipment valued at \$217.00. In addition, he received a Letter of Reprimand for failure to report and was placed on the control roster. A board of officers convened on 30 Mar 82 found the applicant subject to discharge, recommending an under other than honorable conditions discharge without probation and rehabilitation. Because of the recommended character of discharge, the discharge approval authority would be the Numbered Air Force (GCM authority). The case was reviewed by the base legal office and Numbered Air Force legal staff and was found legally sufficient to support separation. Record of the final discharge action taken by the discharge authority is not on file in the applicant's master personnel record, however, the DD Form 214 on file indicates applicant was discharged effective 28 Jun 82 with an under other than honorable conditions discharge.

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Discussion. This case has been reviewed for separation processing and there are no errors or irregularities causing an injustice to the applicant. The discharge complies with directives in effect at the time of his discharge. The records indicate his military service was reviewed and appropriate action was taken.

Recommendation. Applicant did not identify any specific errors in the discharge processing nor provide facts which warrant an upgrade of the discharge he received. The discharge was consistent with the procedural and substantive requirement of the discharge regulation and was within the discretion of the discharge authority. Applicant was afforded due process as required by law and regulation. Accordingly, we recommend applicant's request be denied. He has not filed a timely request.



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Separation Branch
Dir of Personnel Program Management

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