RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2016-00001

 COUNSEL: NONE

 HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Under Other Than Honorable Conditions (UOTHC) discharge be upgraded to a General or Honorable discharge.

APPLICANT CONTENDS THAT:

When he was discharged he was told if he could prove he lived a productive life, he could upgrade his discharge. The evidence of his life is reflected in the documentation he submitted.

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

STATEMENT OF FACTS:

The applicant initially entered the Regular Air Force on 15 Dec 71.

On 26 May 72, the applicant’s commander punished him through non-judicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ) for failing to go at the time prescribed to his appointed place of duty.

During the period 20 Sep 72 through 29 Sep 72, the applicant was absent without leave (AWOL) for 10 days.

On 6 Nov 72, the applicant was referred to a Special Court-Martial on the following charges:

 a.  Charge 1: AWOL from 20 Sep 72 through 29 Sep 72 in violation of UCMJ Article 86.

 b.  Charge 2:  Wrongful possession of 1 ounce of marijuana, in violation of UCMJ Article 134.

 c.  Charge 3:  Stealing 18 eight-track stereo tape recordings in violation of UCMJ Article 121.

On 11 Jan 73, the applicant received a Letter of Reprimand (LOR) for failing to go at the time prescribed to his appointed place of duty.

On 2 Mar 73, the applicant’s area defense counsel requested he be granted a “Section F Discharge” (*Resignation or Request for Discharge for the Good of the Service*), for the good of the service in lieu of his pending trial by court-martial, arguing his psychiatric evaluations raised the issue of his legal insanity in the military sense.

On 5 Mar 73, the applicant underwent a medical evaluation in which it was noted he had attempted suicide in Nov 72, was hospitalized for psychiatric problems for 10 days in Feb 73, and “has used most types of drugs.”

On 16 Mar 73, the applicant was furnished a UOTHC discharge, with a reason for discharge of “AFM 39-12 Chap 2 Sec F,” and was credited with 1 year, 4 months, and 16 days of total active service.

On 13 Sep 77, the Discharge Review Board (DRB), in response to the applicant’s request to upgrade his discharge to Honorable, reviewed the applicant’s entire case, to include the psychiatric opinions, and did not find the personality disorders were an excuse for the offenses committed, although they did mitigate those offenses. The DRB concluded the applicant’s undesirable discharge should not be changed.

On 8 May 79, the DRB again reviewed the applicant’s case and determined his discharge should not be changed.

On 7 Jun 16, a request for post-service information, to include a request for an FBI background check, was forwarded to the applicant for review and comment within 30 days. As of this date, no response has been received by this office. (Exhibit C)

THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of an 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, in the absence of any evidence related to the applicant’s post-service activities, there is no way for us to determine if the applicant’s accomplishments since leaving the service are sufficiently meritorious to overcome the misconduct for which he was discharged. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought.

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-2016-00001 in Executive Session on 25 May 17 under the provisions of AFI 36-2603:

Panel Chair

 Member

 Member

The following documentary evidence was considered:

 Exhibit A.  DD Form 149, dated 26 Dec 16, w/atchs.

 Exhibit B.  Applicant's Master Personnel Records.

 Exhibit c.  AFBCMR Clemency Letter, dated 7 Jun 16, w/atch.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.