

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████		GRADE AB	AFSN/SSAN ██████████			
TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	<input checked="" type="checkbox"/>					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
						X
ISSUES	A92.21 A92.01 A94.05	INDEX NUMBER	A67.30			
		EXHIBITS SUBMITTED TO THE BOARD				
		1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
		4	BRIEF OF PERSONNEL FILE			
			COUNSEL'S RELEASE TO THE BOARD			
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
			TAPE RECORDING OF PERSONAL APPEARANCE			
HEARING DATE	09 Sep 2004	CASE NUMBER	FD-2003-00507			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
Case heard at Washington, D.C.						
Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR						
ENDORSEMENT					DATE: 9/15/2004	
TO:	SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			FROM:	SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002	

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00507

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant appeared before the Discharge Review Board (DRB) without counsel. He stated that he desired to have counsel present; however, due to miscommunications on his part, none was available at this time and he wished to proceed without counsel. [REDACTED], his spouse, also testified.

The following additional exhibits were submitted at the hearing:

Exhibit 6: College Transcripts from Luzerne County Community College

Exhibit 7: Associate of Applied Science Degree Certificate from Luzerne County Community College

Exhibit 8: Photo copy of Luzerne County Community College Summa Cum Laude Plaque dated May 27, 2004

Exhibit 9: Transcripts from Johnson Technical Institute

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge and change of reason and authority for discharge, and change of reenlistment code are denied. The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE: The applicant's issues are listed in the attached brief

Issues 1 and 8 are similar in nature and, therefore, will be addressed jointly. Applicant contends that his EPR is not a true reflection of his time in the service, that it was scheduled to be conducted directly after his off duty incident, that had he not been involved in the incident he would have been evaluated as an asset to his department, that he received a Letter of Appreciation for going above and beyond his duties, and that his EPR also reflects other acts above and beyond the duties of his job. The DRB noted that the only performance report (or evaluations) the applicant received had an overall rating of "1", the lowest rating possible, and concluded there were no merits to these issues upon which to base a change, and that the negative aspects of his misconduct outweighed any positive aspects of his time in the service.

Issues 2, 3, and 5 are similar in nature and, therefore, will be addressed jointly. Applicant contends that his ability to serve was impaired by his youth, immaturity, and deprived background, and that he tried to serve but just couldn't or wasn't able to. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 4. Applicant contends that his ability to serve was impaired because he was not working in the field for which he was trained. The DRB noted that at the time the applicant was discharged, he had completed a three month Air Force Vehicle Body Maintenance Apprentice Course, was classified as a Vehicle Body Mechanic Apprentice, and that he was performing duty as a Vehicle Body Mechanic as evidenced by the EPR in his records; thus, the DRB concluded there was no merit to this issue upon which to base a change.

Issues 6 and 7 are similar in nature and, therefore, will be addressed jointly. Applicant contends that his

command abused its authority when it decided to discharge him with a bad discharge and that his entire discharge was based on an incident he has never been tried or convicted of. The applicant did not provide substantiated evidence of his issues and the DRB concluded the misconduct was a significant departure from conduct expected of all military members and the discharge characterization received by the applicant was appropriate.

Issue 9. Applicant contends that he has been feeling the financial burdens of his actions since his separation as he was denied his Pennsylvania Unemployment Compensation and has lost the use of the GI Bill. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 10. Applicant contends he has been an outstanding citizen since his discharge. The DRB was pleased to see that the applicant was doing well and acknowledges being a good citizen since his discharge. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

FD2002-00507A

[REDACTED]
[REDACTED]
(Former AB) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Dish fr USAF 1 Nov 94 UP AFR 39-10, para 5-47a (Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Discharge.

2. OTHER FACTS:

a. See attached cy of Examiner's Brief dtd 22 Aug 96.

b. The AFDRB reviewed case on 13 Sep 96 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.

3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 24 Oct 03. (Change Discharge to Honorable)

ISSUE 1: My EPR is not a true reflection of my time in service. To my disadvantage my first EPR was scheduled to be conducted directly after my off duty incident. If I was not involved in the incident I would have been evaluated as an asset to my department.

ISSUE 2: My ability to serve was impaired by my youth and immaturity.

ISSUE 3: My ability to serve was impaired by my deprived background.

ISSUE 4: My ability to serve was impaired because I was not working in the field I was trained for.

ISSUE 5: I tried to serve and wanted to, but just couldn't or wasn't able to.

ISSUE 6: My command abused its (sic) authority when it decided to discharge me and decided to give me a bad discharge.

ISSUE 7: My entire discharge is based on an incident that I have never been tried or convicted of.

ISSUE 8: I received a letter of appreciation for going above and beyond my duties. My EPR also reflects other acts above and beyond the duties of my job.

ISSUE 9: I have been feeling the financial burdens of my actions since my date of separation. I was denied my Pennsylvania Unemployment compensation due to the character of separation (sic). I have also lost use of my GI Bill which would have been useful in pursuit of my first and now my second degree.

ISSUE 10: I have been an outstanding citizen since my discharge.

Atchs

1. Response to Article 15 Action.
2. Enlisted Performance Report.
3. Letter of Appreciation.
4. Education Achievement Letter.
5. College Transcript.
6. Academic Achievement Letters(2).
7. Court Document.
8. DD Form 214.

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