

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | GRADE AMN | AFSN/SSAN [REDACTED] |
|--|-------------------------|--------------------------------|

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|-----------------|----------------------------|---|----------------------|
| TYPE GEN | PERSONAL APPEARANCE | X | RECORD REVIEW |
| COUNSEL | | ADDRESS AND OR ORGANIZATION OF COUNSEL | |
| YES | No | | |
| | X | | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|----------------|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |

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| ISSUES A94.55 | INDEX NUMBER A67.90 | 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 | |
| HEARING DATE 07 Jul 2009 | CASE NUMBER FD-2008-00207 | | | |

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

Case heard in Washington, D.C.

Advise applicant of the decision of the Board, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

Names and votes will be made available to the applicant at the applicant's request.

X = Upgrade, Reason for Discharge and Reenlistment Code

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| SIGNATURE OF RECORDER [REDACTED] | SIGNATURE OF BOARD PRESIDENT [REDACTED] |
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|--|---|
| INDORSEMENT | DATE: 7/16/2009 |
| 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 20762-7001 |

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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.

(NPA) The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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:

Applicant contends discharge was inequitable because she would not have received the discharge "under current standards." The records indicated that the applicant received two Article 15s for violating lawful commands by her superior commissioned officer, to receive the Anthrax vaccination. She was subsequently discharged with a general discharge (under honorable conditions) for Misconduct, Conduct Prejudicial to Good Order and Discipline. In response to the Article 15, the applicant contended that she chose not to take the anthrax vaccine because of side effects that she experienced. She stated that her arm was painful, she had edema and she had no feeling in her left arm or fingers for a week and a half after the vaccine. The applicant did not submit medical documentation to substantiate her medical condition. As part of her upgrade request, she submitted the Court Order in Doe v Rumsfeld, wherein the Court granted a preliminary injunction, enjoining the Department of Defense from inoculating service members without their consent.

The anthrax vaccine program is based on a military readiness obligation and unfounded health concerns do not excuse a military member from obedience. At the time the applicant served in the Air Force, the Anthrax vaccination was mandatory, and thus the applicant was required to comply with the lawful order directed by her superior commissioned officer. The Board concluded that the negative aspects of the applicant's service outweighed the positive contributions she made in her Air Force career. The characterization of the discharge received by the applicant was found to be appropriate.

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