

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b>			<b>GRADE</b>		<b>AFSN/SSAN</b>			
<b>TYPE</b> <b>GEN</b>	<b>PERSONAL APPEARANCE</b>			<b>X</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<b>YES</b>	<b>No</b>							
	<b>X</b>							
<b>MEMBER SITTING</b>				<b>VOTE OF THE BOARD</b>				
				HON	GEN	UOTHC	OTHER	DENY
				X				
								X
				X				
				X				
<b>ISSUES</b>		<b>INDEX NUMBER</b>		<b>EXHIBITS SUBMITTED TO THE BOARD</b>				
A94.54 A02.04		A67.10		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				
<b>HEARING DATE</b>		<b>CASE NUMBER</b>						
29 Jun 2009		FD-2008-00292						

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 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.

<b>SIGNATURE OF RECORDER</b>	<b>SIGNATURE OF BOARD PRESIDENT</b>
	

<b>INDORSEMENT</b>		<b>DATE: 7/14/2009</b>
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7001	

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

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:** The Board grants the requested relief.

The Board finds that the evidence of record substantiates an impropriety that would justify a change of discharge.

**ISSUE:**

Applicant submitted no specific issues regarding the inequity or impropriety of his discharge, but requests an upgrade of his discharge because he would like to utilize the G.I. Bill to further his education and better support his daughter. The record indicates the applicant received two Letters of Counseling, two Letters of Reprimand; two Letters of Admonition and one Article 15. His misconduct included failure to document Delay Enlistment Program follow-up/folders; misuse of government-owned vehicle, failure to pay financial debt, failure to accept priority three leads for recruitment and failure to make assigned phone calls/contacts. After thorough review of the service record, the Board found evidence of an impropriety in the discharge of the applicant. Based on the provisions of Air Force Instruction 36-3208, paragraphs 6.2.2. and 6.2.2.2., "an Airman recommended for discharge.... must be offered an opportunity for a hearing by an administrative discharge board if the member has 6 years or more total active and inactive military service at the time the discharge process starts." The record indicates at the time of his discharge notification, the applicant had over six years total active/inactive military service and was not afforded a board hearing. The Board Majority determined that there was substantial doubt that the discharge characterization would have remained the same if an administrative hearing had convened and concluded the discharge was improper.

**CONCLUSIONS:** The Discharge Review Board concludes that the discharge was inconsistent with the procedural and substantive requirements of the discharge regulation and was not within the discretion of the discharge authority and that the applicant was not provided full administrative due process.

In view of the foregoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief