

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE AB	AFSN/SSAN			
TYPE	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
NAME OF COUNSEL AND OR ORGANIZATION						
YES	No					
	X					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOHC	OTHER	DENY
		X				
		X				
					X	
					X	
					X	
ISSUES A94.01 A93.33		INDEX NUMBER A67.10		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 29 Jun 2009		CASE NUMBER FD-2008-00297				

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.

SIGNATURE OF RECORDER *[Signature]* | SIGNATURE OF BOARD PRESIDENT *[Signature]*

INDORSEMENT **DATE: 7/15/2009**

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2008-00297

GENERAL: The applicant appeals for an upgrade of his charge, characterized as General/Under Honorable Conditions, to an Honorable Discharge.

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 is denied.

The Board finds that neither the evidence of record nor information provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUES:

Applicant contends his discharge was inequitable due to a lack of communication, and he states that he has suspicion that this is an unethical means of reprimanding him for his disciplinary misconduct. On the DD Form 293, the applicant addresses solely the infractions committed and recorded on the AETC Form 341 while he was in technical training at Keesler AFB. The Phase Program for tech trainees requires all trainees to possess the Form 341 as well as having one form posted at the entrance of their dormitory rooms to document discrepancies in their living area. The applicant states that he was never addressed and counseled by his supervisors or others in his chain of command over these incidents and contends that constitutes an inequity with regard to his discharge. This is in direct contravention to 81 TRW/JA 5 March 1997 Legal Review, paragraph 3, which documents that "AB was counseled for one occasion each of the following minor disciplinary infractions: being absent from bed checks, failing to shave, failing to update his locator card, and failing to have an AETC Form 341 on his person." The Discharge Review Board noted that these infractions, in and of themselves, are minor and would not normally be the sole basis for discharge. However, the applicant failed to mention his Letter of Reprimand and subsequent Article 15 for two incidents of underage drinking, and one attempt to flee Security Police in the lawful conduct of their duty. For these offenses alone, removal and discharge from the Air Force are appropriate actions for which his supervisors specifically and directly communicated (verbally and in writing) to him his shortfalls in conduct. When the Letter of Reprimand was issued, his chain of command utilized the common tools of discipline in the Air Force to correct his behavior, specifically the underage drinking--but the applicant was undeterred and committed the same offense again.

The Board considered the applicant's statement that he was a "model Airman" on duty, and after thorough review of the records, the Board Majority determined that through the administrative actions taken, via the AETC Forms 341, LOR and Article 15, the applicant had ample opportunity to modify his behavior. The Board Majority found the willful misconduct offset any positive aspects of the applicant's duty performance and concluded that the discharge and reason for discharge were 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