

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px;"></div>		GRADE <b>A1C</b>	AFSN/SSAN <div style="background-color: black; width: 100px; height: 15px;"></div>			
TYPE UOHC	<b>X</b>	PERSONAL APPEARANCE	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No	ATTN: QUEEN BAKER 1608 K STREET NW WASHINGTON DC 20006				
<b>X</b>						
NAME OF COUNSEL AND OR ORGANIZATION <b>AMERICAN LEGION</b>						
		<b>VOTE OF THE BOARD</b>				
		HON	GEN	UOHC	OTHER	DENY
						X+*
						X+*
						X+*
						X+*
						X+*
						X+*
ISSUES <b>A92.21</b> <b>A94.05</b>		INDEX NUMBER <b>A94.07</b>		<b>EXHIBITS SUBMITTED TO THE BOARD</b>		
				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		
HEARING DATE <b>19 Nov 2009</b>		CASE NUMBER <b>FD-2008-00382</b>		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE		
				TAPE RECORDING OF PERSONAL APPEARANCE HEARING		
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.						
+Reason for Discharge						
*Reenlistment Code						
<b>INDORSEMENT</b>						
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		

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>	<b>CASE NUMBER</b> <b>FD-2008-00382</b>
<p><b>GENERAL:</b> The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.</p> <p>The applicant appeared and testified before the Discharge Review Board (DRB), with counsel Ms. QB of the American Legion, at Andrews AFB on 19 Nov 2009. The following witness also testified on the applicant's behalf: Mr. Michael Sutton, applicant's uncle.</p> <p>The following additional exhibits were submitted at the hearing: Exhibit #5: American Legion Statement</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p><b>ISSUE:</b> From the DD Form 293, the applicant submitted no issues; however he requested upgrade of his discharge to have his G.I. Bill benefits reinstated.</p> <p><b>FINDINGS:</b> The Board denies the upgrade of the discharge, change of reason and authority for discharge, and change of reenlistment code.</p> <p>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.</p> <p>Issue 1. Applicant contends the characterization of his discharge was too harsh based on the quality of his service. The record indicates on 30 April 2007, the applicant, through his defense counsel submitted a request for discharge in lieu of trial by court-martial, under the provisions of Air Force Instruction 36-3208, Chapter 4 (Administrative Separation of Airmen). On 15 and 16 Dec 2006, the applicant was with a group of individuals who were under surveillance by the Air Force Office of Special Investigation (OSI) for possible drug purchase and use. On 16 Dec 2006, when OSI entered the residence under surveillance, applicant admitted to the use and provided a urine sample. Applicant tested positive and above the DoD cutoff of methylenedioxymphetamine (MDA). On 17 Dec 2006, the applicant provided a sworn statement admitting to buying two pills, which he believed to be ecstasy, from another Airman and ingesting one of the pills. In applicant's request for discharge in lieu of trial by court-martial, he states he was aware he may be discharged with an Under Other Than Honorable Conditions (UOTHC) service characterization, but wanted the opportunity to move forward with his future without the stigma of a federal conviction. Applicant took full responsibility for his drug use. The Board concluded that the applicant made an informed choice when he requested the Chapter 4 discharge and this negative aspect of the applicant's service outweighed the positive contributions he made in his Air Force career. The characterization of the discharge received by the applicant was found to be appropriate.</p> <p>Issue 2. The Board was pleased to see the applicant was doing well and is pursuing a college education. However, no inequity in his discharge was found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.</p> <p><b>CONCLUSIONS:</b> 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 the applicant provided full administrative due process.</p> <p>In view of the foregoing findings, the Board further concludes that there exists no legal or equitable basis for</p>	

upgrade of discharge and determines the discharge should remain unchanged.

Attachment:  
Examiner's Brief