

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>				GRADE TSGT		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>	
TYPE		PERSONAL APPEARANCE				X RECORD REVIEW	
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES No		X					
MEMBER SIGNING				VOTE OF THE BOARD			
				HON	GEN	UOTHC	OTHER
							DENY
							X
							X
							X
							X
							X
ISSUES A01.00		INDEX NUMBER A42.00		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 17 Dec 2009		CASE NUMBER FD-2008-00560					
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.							
ENDORSEMENT				DATE: 1/6/2010			
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

FD-2008-00560

GENERAL: The applicant appeals to change the narrative reason for his discharge.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined and requests that the review be completed based on the available service record. The Board noted that the applicant's personnel files do not contain records pertaining to his administrative discharge other than a copy of his DD 214. However, the file contains voluminous medical records.

The attached brief contains available pertinent data on the applicant.

FINDINGS: The Board denies the change of reason for discharge.

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 the narrative reason for the discharge.

The applicant contends that his discharge was inequitable based on the following reason:

Issue: The Applicant contends that the DD 214, which cites narrative reason for separation as: "Personality Disorder," is a violation of The Health Insurance Portability and Accountability Act (HIPPA), as it divulges personal medical history to prospective employers who use the DD 214 for employment purposes. Applicant believes that a broad reason such a "medical" would suffice, especially because his diagnosis is still unknown. Therefore, the applicant requests that his DD 214 be amended to correct this error.

The Board found that the applicant submitted no issues regarding the inequity or impropriety of his discharge. The DRB cannot grant the relief requested, as it is not within the purview of the Board to make a "medical diagnosis," regarding his current condition. In addition, it is not within the purview of the DRB to make policy with regard to the applicant's contention that citing the medical basis on the DD 214 is a violation of HIPPA. Although the DRB cannot grant the relief requested, the applicant should submit his request to the Board for Correction of Military Records (BCMR) to determine whether his records should be corrected.

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 the applicant was provided full administrative due process.

In view of the foregoing findings, the Board concludes that there exists no basis for change of the narrative reason on applicant's DD 214 within the purview of the DRB. However, the applicant may request a change through the BCMR.

Attachment:
Examiner's Brief

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

RODRIGUEZ, ROBERT
149-62-8086

(Former TSGT) (HGH TSGT)

1. MATTER UNDER REVIEW: Appl rec'd a HON Disch fr USAF Patrick AFB, FL on 10 Jul 08 UP AFI 36-3208. Appeals for a Change to RE Code and Narrative Reason.

2. BACKGROUND:

a. DOB: 10 Mar 75 Enlmt Age: 19 5/12 Disch Age: 33 4/12 Educ: HS DIPL.

AFQT: N/A. A-91 E-79, G-70, M-48. PAFSC: 4P071 – Pharmacy Craftsman.

DAS: 29 Dec 03.

b. Prior Sv: (1) AFRes 12 Apr 94 - 8 Aug 94 (3 Mos, 25 Das) (Inactive).

(2) Enlisted as AB on 9 Aug 94 for 4 Yrs. Svd: 3 yrs, 3 mos, 15 das. all AMS.

Extended on 2 Apr 94 for 15 mos. EPRs: 5, 5.

(3) Reenlisted as SRA on 24 Nov 97, for 4 Yrs. Svd: 4 yrs, 9 mos, 21 Das. all AMS.

Extended on 6 Aug 01 for 12 Mos. EPR: 5, 5, 5, 5.

(4) Reenlisted as SSGT on 17 Sep 02, for 5 yrs & 2 mos. Svd: 5 yrs, 9 mos, 22 das. all AMS.

EPRs: 5, 5, 5.

3. SERVICE UNDER REVIEW:

a. Reenlisted as TSGT on 12 Sep 07 for 4 yrs Svd: 0 Yrs, 9 Mos, 27 Das, all AMS.

b. Grade Status: TSGT - 7 Jul 05
SSGT - 1 Jan 01
SRA - 9 Aug 97
A1C - 9 Dec 95
AMN - 9 Feb 95

c. Time Lost: None.

d. Art 15's & Additional: None.

e. CM: None.

f. Record of Sv: 18 Nov 06 - 17 Nov 07 Patrick AFB 3 (Annual)

g. Awards & Decs: AFCEM, AFAM w/2 OLC, AFOUA w/5 OLC, AFGCM w/ 2OLC, NDSM w/1SS, GWOTSM, HSM w/2 SS, AFOSSTR, AFLS w/2 OLC, USAFPMAGR w/1 OLC, SAEMR (Rifle), AFTR.

h. Stmt of Sv: TMS: (14) Yrs (2) Mos (27) Das

TAMS: (13) Yrs (11) Mos (1) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 24 Nov 08.

ATCH: None.

26MAY09/JLL

**APPLICATION FOR THE REVIEW OF DISCHARGE
FROM THE ARMED FORCES OF THE UNITED STATES**

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

OMB No. 0704-0004
OMB approval expires
Oct 31, 2009

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. **PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.**

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA *(The person whose discharge is to be reviewed).* **PLEASE PRINT OR TYPE INFORMATION.**

a. **BRANCH OF SERVICE** (*X one*) ☐ ARMY ☐ MARINE CORPS ☐ NAVY ☒ AIR FORCE ☐ COAST GUARD

b. **NAME** *(Last, First, Middle Initial)*

Rodriguez, Robert

c. **GRADE/RANK AT DISCHARGE**

E6/TSgt

d. **SOCIAL SECURITY NUMBER**

149-62-8086

e. **CURRENT MAILING ADDRESS OF APPLICANT OR PERSON NAMED IN ITEM 11** *(Forward notification of any change in address.)*

7667 N. Wickham Rd Apt 302

Melbourne, FL 32940

f. **TELEPHONE NUMBER** *(Include Area Code)*

(321) 242-4986

g. **E-MAIL**

rodcpht@cfl.r.com

h. **FAX NUMBER** *(Include Area Code)*

(321) 242-4986

2. DATE OF DISCHARGE OR SEPARATION

(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)

20080710

4. DISCHARGE CHARACTERIZATION RECEIVED (*X one*)

☒ **HONORABLE**

☐ **GENERAL/UNDER HONORABLE CONDITIONS**

☐ **UNDER OTHER THAN HONORABLE CONDITIONS**

☐ **BAD CONDUCT** *(Special court-martial only)*

☐ **UNCHARACTERIZED**

☐ **OTHER** *(Explain)*

5. BOARD ACTION REQUESTED (*X one*)

☐ **CHANGE TO HONORABLE**

☐ **CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS**

☐ **CHANGE TO UNCHARACTERIZED** *(Not applicable for Air Force)*

☒ **CHANGE NARRATIVE REASON FOR SEPARATION:**
personality disorder to medical

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST *(Continue in Item 13. See instructions on Page 3.)*

It is a violation of Hipaa to list medical conditions, or disabilities, in such a manner to divulge personal medical history to prospective employers who use the DD214 copy 4 for employment purposes. A broad reason such as medical will suffice, especially when my diagnosis is still unknown.

7. (*X if applicable*) **AN APPLICATION WAS PREVIOUSLY SUBMITTED ON** *(YYYYMMDD)*
AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: *(Continue in Item 14. If military documents or medical records are relevant to your case, please send copies.)*

9. TYPE OF REVIEW REQUESTED (*X one*)

☒ **CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR** *(counsel/representative)* **WILL NOT APPEAR BEFORE THE BOARD.**

☐ **I AND/OR** *(counsel/representative)* **WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.**

☐ **I AND/OR** *(counsel/representative)* **WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO** *(enter city and state)* **(NOTE: The Navy Discharge Review Board does not have a traveling panel.)**

10.a. COUNSEL/REPRESENTATIVE *(if any)* **NAME** *(Last, First, Middle Initial)* **AND ADDRESS**

(See Item 10 of the instructions about counsel/representative.)

none

b. **TELEPHONE NUMBER** *(Include Area Code)*

c. **E-MAIL**

d. **FAX NUMBER** *(Include Area Code)*

11. APPLICANT MUST SIGN IN ITEM 12.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name *(print)* **and relationship by marking a box below.**

☐ **SPOUSE**

☐ **WIDOW**

☐ **WIDOWER**

☐ **NEXT OF KIN**

☐ **LEGAL REPRESENTATIVE**

☐ **OTHER** *(Specify)*

12. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. *(U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)*

CASE NUMBER

(Do not write in this space.)

a. **SIGNATURE - REQUIRED** *(Applicant or person in Item 11 above)*

Robert Rodriguez

b. **DATE SIGNED - REQUIRED** *(YYYYMMDD)*

20081124

FD2008-00560

13. CONTINUATION OF ITEM 6, ISSUES (If applicable)

14. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

15. REMARKS (If applicable)

I request a revised DD214 be issued when aforementioned request is accomplished. Likewise if my request can not be accomplished as requested please provide information to request an appeal.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (CG-122)
2100 Second Street, S.W. Room 5500
Washington, DC 20593