

# 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 <b>AB</b>		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>	
TYPE GEN		PERSONAL APPEARANCE		<b>X</b>	RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	No						
	<b>X</b>						
MEMBER SITTING				VOTE OF THE BOARD			
				HON	GEN	UOTHIC	OTHER
							DENY
							X
							X
							X
							X
							X
ISSUES <b>A95.00</b>		INDEX NUMBER <b>A67.10</b>		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 <b>13 Jan 2010</b>		CASE NUMBER <b>FD-2008-00566</b>					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.							
<p>Case heard in Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
INDORSEMENT				DATE: 1/15/2010			
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

CASE NUMBER

FD-2008-00566

**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 and requests that the review be completed based on the available service record.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

**FINDING:** The Board denies the upgrade of the 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 discharge.

### ISSUE:

Applicant contends that his discharge was inequitable because "his commander or superiors did not offer or recommend my attending any substance abuse programs" after he had his second alcohol related incident.

The applicant was discharged IAW AFI 3603208, paragraph 5.49 for Misconduct: Minor Disciplinary Infractions with a general under honorable conditions discharge. The applicant received nonjudicial punishment (NJP) in September 2005 while stationed in Germany for driving while drunk (DUI). In October 2006, he received a Letter of Reprimand (LOR) for failure to pay a just debt. While stationed at Tinker AFB, Oklahoma, the applicant received his second NJP in February 2007 for being DUI and for being absent without leave. The applicant contends that while he was ordered into substance abuse treatment after his first DUI, his superiors did not offer substance abuse counseling after his second DUI.

AFI 44-121, *Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program*, paragraph 3.8.1 states that commanders shall refer all service members for assessment when substance abuse is suspected to be a contributing factor in any incident, such as DUI. While commanders should comply with this provision in order to assist in the assessment of the member, the misconduct noted in the applicant's record was legally sufficient to support a discharge with a general service characterization. Furthermore, while the applicant contends that he was not referred to ADAPT, the Board relied on the presumption of regularity with regard to the applicant's contention.

**CONCLUSION:** 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 further concludes that there exists no legal or equitable basis for upgrade of discharge and determined the discharge should remain unchanged.

Attachment:

Examiner's Brief