

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 20px;"></div>			GRADE  AMN		AFSN/SSAN <div style="background-color: black; width: 100%; height: 20px;"></div>		
TYPE	GEN	<b>X</b>	PERSONAL APPEARANCE		RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	No						
	<b>X</b>						
MEMBER			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							<b>X</b>
							<b>X*+</b>
							<b>X*+</b>
							<b>X*+</b>
ISSUES <b>A92.15 A93.17 A94.05</b>		INDEX NUMBER <b>A66.00</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>16 Apr 2010</b>		CASE NUMBER <b>FD-2008-00576</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, 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> <p>* Change Reason and Authority + Change Reenlistment Code</p> <div style="background-color: black; width: 100%; height: 50px; margin-top: 20px;"></div>							
INDORSEMENT				DATE: 4/19/2010			
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			

<b>AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>	CASE NUMBER  <b>FD-2008-00576</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, via video teleconference between Andrews AFB Maryland and Robins AFB GA on 16 Apr 2010.</p> <p>The following additional exhibits were submitted at the hearing:  Exhibit #5: Applicant's Contentions</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p><b>FINDING:</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><b>ISSUE:</b></p> <p>Issue 1. Applicant contends the discharge was improper because it was based on an unfounded allegation of drug use. Specifically, the applicant contends that she tested positive for oxymorphone after she ingested a tablet provided to her by a friend in the hopes that it would relieve the pain from a headache. She explains that she did not know what the tablet was when her friend provided it to her, and had no idea it was a prescribed medication until after she had tested positive for oxymorphone and confronted her friend about the pill. The DRB noted that the applicant failed to present this evidence at the time she was issued an Article 15 for the drug use or at the time of her discharge, and did not raise an argument for retention in her response to the discharge notification. The DRB concluded the service characterization, narrative reason, and RE code assigned were appropriate.</p> <p>Issue 2. Applicant contends that her discharge did not take into account the good things she did while in the service. The DRB took note of the applicant's duty performance as documented by her performance reports, character letters and other accomplishments. However, the DRB found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The record indicates that the applicant was discharged for Misconduct—Drug Abuse. She received an Article 15 action for wrongful use of oxymorphone, a schedule II controlled substance. The record shows that the applicant's drug abuse was identified through random urinalysis testing. In her response to her Article 15 action, the applicant stated she had never "wrongfully and knowingly taken any drugs considered to be narcotics or controlled substances without a prescription" and denied having any knowledge of how the drug could have entered her system. The record also indicated the applicant had received an Article 15 for failure to go and being drunk on duty; an Article 15 for wrongfully communicating a threat; two Letters of Reprimand for unlawfully putting her hands on another airman; and two Letters of Counseling for missing scheduled appointments. In the applicant's response to her discharge action, she reiterated her claim that she never knowingly used oxymorphone. After review of the record, the Board found no evidence to indicate that the applicant did not know right from wrong or that in her three years and 11 months of service was unaware of the Air Force policy of zero tolerance to drug use. The Board found the negative aspects of the willful misconduct outweighed the positive aspects of the applicant's performance and concluded that the discharge was appropriate. The Board concluded the discharge was appropriate for the reasons which were the basis for</p>	

this case.

Issue 3. Applicant cited her desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, she signed a statement (date unknown) that she understood she must receive an Honorable discharge to receive future educational entitlements. The applicant admitted to the DRB that she recalled receiving such a document. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade. The Board concluded the discharge was appropriately characterized.

**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 determines the discharge should remain unchanged.

Attachment:  
Examiner's Brief