

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE A1C	AFSN/SSAN [REDACTED]
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TYPE HON	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

VOTE OF THE BOARD				
HON	GEN	UOTIIC	OTHER	DENY
				X+*
				X+*
				X+*
				X+*
				X+*

ISSUES A92.35 A94.21 A90.05	INDEX NUMBER A65.00	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 04 Aug 2010	CASE NUMBER FD-2009-00074	
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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.

+ Reason and authority for discharge.
* Reenlistment Code

TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	DATE: 8/4/2010	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

FD-2009-00074

GENERAL: The applicant appeals to change the reason and authority for the discharge, and to change the reenlistment code.

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 change of reason and authority for discharge, and change of reenlistment code.

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.

ISSUES:

Issue 1. Applicant contends his discharge was inequitable because it was based on one isolated incident in 14 months of service with no other adverse action. A Report of Homosexual Conduct disclosed that three military members made credible statements recounting three separate incidents wherein applicant made homosexual statements. These allegations were found to be substantiated in that report. Therefore, applicant's contention that his discharge was based on one isolated incident is inaccurate.

Issue 2. Applicant contends his discharge was inequitable because he did not receive a trial in which to be found guilty or not. Applicant was offered the opportunity to have an administrative board hearing, but submitted a conditional waiver of his right to a board provided he received an Honorable characterization of service. Applicant failed to take the opportunity given him to rebut the presumption that he is a person who engaged in, attempted to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

Issue 3. Applicant contends he was treated unfairly like a prisoner. There was no evidence of record to substantiate this assertion.

Issue 4. Applicant contends his lieutenant violated the "don't ask, don't tell policy" by questioning him about his sexual orientation. The record disclosed that the applicant's discharge followed an informal inquiry properly conducted by Maj MDR, 506 ESFS/CC, and documented in a Report of Homosexual Conduct. Based on the available information, Maj MDR determined that the allegations of homosexual conduct were substantiated. A legal review found the action legally sufficient to sustain the discharge.

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 to change the reason or authority for the discharge, or the reenlistment code, and determines the discharge should remain unchanged.

Attachment:

Examiner's Brief