

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

VOTE OF THE BOARD				
HON	GEN	UOTHC	OTHER	DENY
	X			
	X			
	X			
	X			
	X			

ISSUES A94.06	INDEX NUMBER A94.07	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 27 May 2010	CASE NUMBER FD-2009-00130	
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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.

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2009-00130

GENERAL: The applicant appeals for upgrade of discharge to General.

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 discharge is upgraded to general.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE: The applicant states that her discharge was inequitable because it was based on unproven evidence and was an isolated incident in 17 months of service with no other adverse action. The record indicates the applicant tested positive for Methylenedioxymethamphetamine (MDMA) or "Ecstasy" a Schedule 1 Controlled Substance. In June 2001, the applicant tested positive for ecstasy. The applicant subsequently confessed to her ecstasy use during an interview with Security Force Investigators. At the pre-trial motion, the Defense requested that the urinalysis and subsequent investigation be suppressed because the investigator improperly obtained the consent for urinalysis by threatening the applicant that her commander would order her to provide urinalysis sample if she did not voluntarily give one. The Defense alleged that the investigator did not inform the applicant of her rights regarding consent of the fact that a command-directed urinalysis could not be used against her in a court-martial. After interviewing the witnesses and reviewing the Defense motion, Trial Counsel concluded they could not oppose the motion, which would result in the urinalysis and confession being suppressed. Without the investigators testimony, urinalysis, and confession; the government's case is seriously weakened and the likelihood of an acquittal is much higher. On 8 May 2002, the member requested to be discharged from the United States Air Force according to AFI 36-3208, Chapter 4, in Lieu of Trial by Court-Martial. Enclosed in that notification was the applicant's entitlements. While the DRB did not condone the applicant's drug use, they did feel it would have been more equitable to give her a General discharge.

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.

However, in view of the foregoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by a General discharge. Therefore, the applicant's characterization for discharge should be changed to General.

Attachment:
Examiner's Brief