

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

VOTE OF THE BOARD				
HON	GEN	UOTHC	OTHER	DFNY
				X**
				X**
				X*+
				X**
				X**

<b>ISSUES</b> A94.05 A02.03	<b>INDEX NUMBER</b> A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		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

<b>HEARING DATE</b> 01 Jul 2010	<b>CASE NUMBER</b> FD-2009-00163	
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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 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  
+Reenlistment Code

**INDORSEMENT**

**DATE: 7/1/2010**

**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-2009-00163

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 01 Jul 2010.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Contentions

Exhibit #6: Character reference letter

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. Change of reason and authority for discharge and change of reenlistment code are denied.

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 discharge was inequitable because it was too harsh. The applicant received three Article 15s for misconduct from three different bases over the course of four years for the following misconduct: wearing a tongue ring in uniform; failure to get adequate rest before working with live munitions; failure to obey a lawful order (x2) for being at a bar outside the gate of Osan AB, Republic of Korea, after curfew and disobeying the order of a Security Forces member to leave the establishment; failure to go to his appointed place of duty on divers occasions; disrespect to a senior NCO; and sleeping while on duty. The applicant disputed several of the offenses and minimized others. He admitted to wearing the tongue ring in uniform. Regarding the failure to get adequate sleep before loading munitions, the applicant stated that his friend called him at approximately 0100 to 0200 to ask for a ride back to Cannon AFB, New Mexico, after he had been drinking. He made the decision to leave his home to pick his friend up but then became caught up in a base urinalysis sweep. This, plus another series of events beyond the applicant's control, caused him to not get the required rest he needed to perform the mission, which involved being on alert for a Presidential support mission. While the DRB sympathized with the applicant's decision to pick his friend up, based on the seriousness of the applicant's mission the next morning, the DRB determined he should have exercised better judgment than to jeopardize his rest requirements. The applicant claimed he was unaware that he was violating curfew requirements by remaining at the bar outside of Osan AB after curfew hours. The DRB found this unlikely as he had been briefed regarding curfew requirements upon arrival to Osan AB and had completed almost his full tour at Osan AB. Additionally, he admitted that he heard a Security Forces sergeant order all military members to leave the bar and that he disobeyed this order. The applicant admitted to being late to work while stationed at Moody AFB, Georgia, on two occasions, but blamed his malfunctioning car. He also admitted to missing a medical appointment. The applicant disputed that he had been disrespectful to a senior NCO and stated that this event was misperceived by the senior NCO. He admitted to briefly falling asleep while on duty but stated that his Zolof medication made him sleepy. The DRB opined that while the applicant may not have intentionally set out to engage in misconduct in all instances, his repeated poor judgment and inability to foresee the consequences of his actions resulted in appropriate punishments. The Board concluded that the negative aspects of the applicant's service outweighed the positive contributions he made in his Air Force career. The characterization of the discharge

received by the applicant was found to be appropriate.

Issue 2. While not raised by the applicant, a review of the applicant's file shows he was board-entitled at the time he was notified of his administrative discharge. AFI 36-3208, paragraph 6.2.2.2, states that a military member is entitled to a discharge board if he has six years or more total active and inactive military service at the time the discharge processing starts. This paragraph notes that service in the delayed enlistment program is included in calculating the six years. The applicant entered the delayed enlistment program on 27 September 2001 and was notified of his discharge on 1 November 2007; therefore, he should have been notified of his eligibility to have his case heard before an administrative discharge board. DoDI 1332.28, Enclosure 4, paragraph E.4.2.1, et al, states that a discharge shall be deemed proper unless it is determined that an error of fact, law, procedure, or discretion exists associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby (such error shall constitute prejudicial error if there is substantial doubt that the discharge would have remained the same if the error had not been made). In this case, the DRB determined that the applicant was not prejudiced by the lack of a board hearing as there was not substantial doubt that a discharge board would have recommended the applicant's discharge with a general service characterization. For this reason, the DRB found no impropriety.

**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