

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

|  |          |                                     |  |  |                                     |   |       |      |
|--|----------|-------------------------------------|--|--|-------------------------------------|---|-------|------|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)<br><div style="background-color: black; width: 100%; height: 1.2em;"></div>  |          |                                     |  | GRADE<br>Amn   |                                     | AFSN/SSAN<br><div style="background-color: black; width: 100%; height: 1.2em;"></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 SITTING   |          |                                     |  | VOTE OF THE BOARD  |                                     |   |       |      |
| <div style="background-color: black; width: 100%; height: 100%;"></div>  |          |                                     |  | HON  | GEN                                 | UOTHC   | OTHER | DENY |
|  |          |                                     |  |  |                                     |   |       | X*+  |
|  |          |                                     |  |  |                                     |   | @     | X*   |
|  |          |                                     |  |  |                                     |   |       | X*+  |
|  |          |                                     |  |  |                                     |   |       | X*+  |
|  |          |                                     |  |  |                                     |   |       | X*+  |
| ISSUES<br><b>A93.01</b>  |          | INDEX NUMBER<br><b>A67.90</b>       |  | EXHIBITS SUBMITTED TO THE BOARD  |                                     |   |       |      |
|  |          |                                     |  | <b>1</b>   | ORDER APPOINTING THE BOARD          |   |       |      |
|  |          |                                     |  | <b>2</b>   | APPLICATION FOR REVIEW OF DISCHARGE |   |       |      |
|  |          |                                     |  | <b>3</b>   | LETTER OF NOTIFICATION              |   |       |      |
|  |          |                                     |  | <b>4</b>   | 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<br><b>16 Apr 2010</b>   |          | CASE NUMBER<br><b>FD-2009-00182</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. and Robins AFB, Georgia via video-teleconference.</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>*Reenlistment Code<br/> +Narrative Reason<br/> @Secretarial Authority</p> |          |                                     |  |  |                                     |   |       |      |
| <div style="background-color: black; width: 100%; height: 40px;"></div>  |          |                                     |  | <div style="background-color: black; width: 100%; height: 40px;"></div>  |                                     |   |       |      |
| TO:<br>SAF/MRBR<br>550 C STREET WEST, SUITE 40<br>RANDOLPH AFB, TX 78150-4742  |          |                                     |  | FROM:<br>SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL<br>AIR FORCE DISCHARGE REVIEW BOARD<br>1535 COMMAND DR, EE WING, 3RD FLOOR<br>ANDREWS AFB, MD 20762-7001 |                                     |   |       |      |

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2009-00182**

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, via video teleconference between Andrews AFB Maryland and Robins AFB, Georgia on 16 Apr 2010.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Contentions

Exhibit #6: Response to Notification of Discharge

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 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 applicant substantiates an impropriety that would justify a change of discharge.

**ISSUE:**

Issue 1: Applicant contends that he should not be penalized indefinitely for a mistake he made when he was "young and dumb." The applicant was discharged IAW AFI 36-3208, paragraph 5.50.2: A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The applicant received an Article 15 for failure to go, a Letter of Reprimand for failing to stop at a stop sign and driving on a suspended driver's license, and a second Article 15 for wrongfully transmitting pornographic material on a government computer. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 2: The applicant stated that he did not know that the reenlistment code he received would prevent his reenlistment and had he known, he would have submitted a response to his discharge. The records show that the applicant met with a defense counsel, acknowledged that he was being discharged for conduct prejudicial to good order and discipline, with an under honorable conditions (general) discharge. The applicant's defense counsel, Capt A, signed a memorandum stating that the applicant was fully counseled and advised of his rights prior to waiving his right to submit a statement in response to the discharge. The DRB noted that the applicant had submitted an application for review to the DRB in March 2003, requesting a "record review" of his discharge based on his military personnel file. He did not submit any issues at that time.

**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