

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

SRA

TYPE GEN

PERSONAL APPEARANCE

X

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES No

X

MEMBER SITTING

VOTE OF THE BOARD

HON

GEN

UOTHC

OTHER

DENY

X

X

X

X

X

ISSUES

A93.01

INDEX NUMBER

A84.00

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

26 Aug 2010

CASE NUMBER

FD-2009-00191

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.

INDORSEMENT

DATE: 9/1/2010

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

IR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2009-00191

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

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.

After a review of the record, the Board unanimously voted to grant the relief of the requested upgrade as discussed below.

FINDING: The Board denies the upgrade of the discharge.

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.

ISSUE:

Issue 1. Applicant contends that he should not be penalized indefinitely for a mistake he made when young and immature. The records also indicate member was discharged for unsatisfactory participation. The DRB recognized the applicant was 25 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. Upon review of the record, the Board was unable to find any documentation regarding the discharge. Due to lack of evidence and supporting documentation to explain the discharge, the Board concludes that the misconduct was a significant departure from the conduct expected of all military members. The Board relies on the presumption of regularity and finds the characterization; reason for discharge and the reenlistment code were appropriate.

Issue 2. The applicant stated he was told his discharge would automatically be upgraded. The Board noted the issue was common result of miscommunication, at the time of discharge, when the applicant is briefed that their discharge will automatically be upgraded after six months. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the Board can establish that an inequity or impropriety took place at the time of discharge. After a thorough review of the record, the Board found no evidence to justify an upgrade of the discharge characterization, reason for the discharge or the reenlistment code.

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