

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)				GRADE		AFSN/SSAN		
TYPE GEN		PERSONAL APPEARANCE		X		RECORD REVIEW		
NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES		No						
X								
MEMBER SITTING								
				HON	GEN	UOTHC	OTHER	DENY
								X**
								X**
								X**
								X**
ISSUES		A94.05		INDEX NUMBER		A66.00		
				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		CASE NUMBER						
05 Jul 2012		FD-2010-00334						
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.								
*Narrative Reason								
+RE Code								
TO:				FROM:				
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				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-2010-00334

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 was scheduled for a personal appearance before the Discharge Review Board (DRB) but notified the Board that he had decided against a personal appearance and requested 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 upgrade of the discharge, change of reason and authority for the 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.

ISSUE: Applicant received a General discharge for Misconduct: Drug Abuse.

Applicant contends discharge was inequitable and too harsh because it was based on an isolated, one time incident in over 2 years of service. The record indicates that the applicant was discharged for Misconduct—Drug Abuse. He received an Article 15 for wrongful use of marijuana. Applicant contends he smoked a cigar and didn't realize it was marijuana. After review of the record, the Board found no evidence to indicate that the applicant did not know right from wrong or that in his two years of service was unaware of the Air Force policy of zero tolerance to drug use. Notwithstanding the applicant's claim that this was an isolated incident, the Board found the seriousness of drug abuse affords the commander the authority to pursue administrative discharge to uphold good order and discipline, regardless of whether or not the member has an otherwise clear record. The Board found the negative aspects of the willful misconduct outweighed the positive aspects of the applicant's performance and concluded that the discharge was appropriate. 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.

The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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