

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)				GRADE		AFSN/SSAN																															
TYPE GEN		X		PERSONAL APPEARANCE		RECORD REVIEW																															
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HEARING DATE 14 Sep 2012		CASE NUMBER FD-2010-00394																																			
<p>Case heard in Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>																																					
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-2010-00394

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.

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: Applicant received a General discharge for Misconduct – Multiple Disciplinary Infractions.

Issue #1 - Applicant contends her discharge was inequitable because she feels she should have been medically separated due to extensive mental health records and attempted suicide while overseas. She feels she should have been deemed unfit to serve in the military in accordance with Department of Defense Instruction (DoDI) 1332.38, enclosure 4, section 13. The record indicates applicant was discharged for misconduct after receiving two Article 15s and a Letter of Reprimand for misconduct. Her misconduct included dereliction of duties by failing to maintain a professional relationship with a Staff Sergeant, failure to obey a no contact order, and with intent to deceive, informed her supervisor that she had a dental appointment, when in fact, she was at home. These acts of misconduct, rather than her mental health disorder, were the basis for her discharge. The record indicates applicant was diagnosed with Adjustment Disorder. According to DoDI 1332.38, Adjustment Disorder is a condition that may render an individual administratively unable to perform duties rather than medically unable, and may become the basis for administrative separation. Accordingly, this condition does not constitute a physical disability despite the fact that it may render a member unable to perform his or her duties. There is no provision for a medical diagnosis to automatically override acts of misconduct, and therefore, no inequity or impropriety was found based on this contention. The Board opined the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board reviewed the entire record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge.

Issue #2 – Applicant contends discharge was improper because it was based on an unfair search and seizure of her cell phone. The Board reviewed the entire record and found no evidence to support this claim. The Board found the no impropriety to warrant upgrade of the discharge and opined the characterization of the discharge received by the applicant was found to be appropriate.

Issue #3 - Applicant contends her discharge was inequitable because the other individual was discharged under the force shaping program and received an honorable discharge. The Board found no evidence in the record or in those submitted by applicant to substantiate this claim. The Force Shaping Program is a selective rather than automatically inclusive process. Notwithstanding this fact, the Board bases equity on the applicant's case, therefore reviewing another individual's case to determine inequity is outside the purview of the DRB. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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