

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>							
TYPE GEN		<input checked="" type="checkbox"/>		PERSONAL APPEARANCE				RECORD REVIEW					
NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL									
YES		No		American Legion 1608 K Street Nw Washington DC 20006									
<input checked="" type="checkbox"/>													
MEMBER SITTING													
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ISSUES A01.43 A92.01 A02.12				INDEX NUMBER A84.00				<div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div>					
HEARING DATE				CASE NUMBER									
19 Jun 2012				FD-2010-00278									
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.</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>*Narrative Reason and Authority</p> <p>+RE Code</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-2010-00278

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), with counsel, at Andrews AFB on 19 Jun 2012.

The following additional exhibits were submitted at the hearing:

- Exhibit # 5: Applicant's Contentions
- Exhibit # 6: Discharge Notification Receipt
- Exhibit #7: Inspector General Response Letter
- Exhibit #8: Administrative Discharge Letter
- Exhibit #9: Discharge Notification Letter
- Exhibit #10: American Legion Statement
- Exhibit #11: College Transcripts
- Exhibit #12: Community Service Certificate

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDING: The Board grants the upgrade of the discharge. The request to change the reason and authority for discharge and to change of reenlistment code are denied.

ISSUE: Applicant received a General discharge for Unsatisfactory Participation

Applicant contends discharge was improper because she was not given the opportunity to appear before an administrative discharge board. On March 15, 2009, the applicant's unit forwarded her a Letter of Notification of Action under AFI 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, to notify her of the discharge action. The letter was forwarded to her address of record. On March 23, 2009 the certified copy of the Letter of Notification was received and accepted at the applicant's address of record. The applicant stated she did not receive the notification until the end of April 2009 and acknowledged receipt on May 3, 2009. However, IAW AFI 36-3209, paragraph 4.6 the unit, within their right, assumed that her failure to respond within fifteen days of receipt constituted a waiver of the rights. The unit issued discharge on April 29, 2012 with an effective date of May 1, 2012. The Board found that the Letter of Notification, regardless of when it was received, was incorrectly done and did not notify the applicant of her right to appear before an administrative discharge board. The Board found this to be sufficient mitigation and extenuation to substantiate an upgrade of the discharge to honorable.

Applicant contends discharge was inequitable because it was too harsh based on her overall performance during her 12 years of service. Additionally, on her DD Form 293, Application for the Review of Discharge from the Armed Forces of the United States, she contended that she always had 100 percent satisfactory participation during her military career. Upon review of the record, the Board was unable to find any documentation regarding her duty performance. Due to lack of evidence, the Board relies on the presumption of regularity and concluded that her command appropriately considered this information at the time of her discharge. The Letter of Notification for discharge states the applicant accumulated ten unexcused absences from UTAs during a twelve month period. Although the applicant originally contended she had 100 percent participation, during the course of hearing she testified that she missed nine of the ten UTAs cited in the discharge notification. IAW AFI 36-3209, paragraph 3.13.2, nine absences in a twelve month period is grounds to initiate discharge. Based on these finding the Board denies the request for the

change to the reason and authority for discharge and the change of the reenlistment code.

CONCLUSION: The Discharge Review Board concludes that the discharge was inconsistent with the procedural and substantive requirements of the discharge regulation and finds the applicant was not provided full administrative due process.

In view of the foregoing findings, the Board concludes that ~~the~~ the overall quality of applicant's service is more accurately reflected by an Honorable discharge under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief