

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
		SSGT				
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	NO					
	X					
MEMBERS SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
		X*+				
		X*+				
		X*+				
		X*+				
ISSUES A94.02		INDEX NUMBER A67.50		EXHIBITS SUBMITTED TO THE BOARD		
HEARING DATE 4 OCT 02		CASE NUMBER FD2001-0299		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	
TIME RECORDING OF PERSONAL APPEARANCE HEARING						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
REMARKS Case heard at Washington, D.C. Advise applicant of the decision of the Board.						
SIGNATURE OF RECORDER		SIGNATURE OF BOARD PRESIDENT				
INDORSEMENT		DATE: 4 OCT 02				
TO: SAF/MIBR 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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD01-0299

GENERAL: The applicant appeals for upgrade of discharge to Honorable, to change the reason for the discharge, and to change his reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.

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

FINDINGS: The discharge is upgraded to Honorable, the reason for discharge is changed to Secretarial Authority, and the RE Code will be changed to 3K.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received a General discharge for Misconduct – A Pattern of Misconduct, and Failure to Pay a Just Debt. He received a Letter of Counseling and two Letters of Reprimand for failure to pay just debts. After a thorough and complete consideration of the information submitted by the applicant, the applicant's compelling documented testimony, and information contained in the record, the Board concluded there was sufficient mitigation and extenuation to substantiate upgrade of the discharge, to change the reason for the discharge, and to change the RE Code.

CONCLUSIONS: 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 that the applicant was provided full administrative due process.

However, in view of the foregoing findings, the board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. And, the RE Code should be changed to 3K. The applicant's characterization, reason for discharge and RE Code should be changed to Honorable and Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former SSGT) (HGH SSGT (E-6 ARNG))

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAFR 97/06/16 UP AFI 36-3209, para 3.21.2 (Misconduct - A Pattern of Misconduct, Failure to Pay a Just Debt). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 67/09/23. Enlmt Age: 17 2/12. Disch Age: 29 8/12. Educ: HS DIPL. AFQT: N/A. A-72, E-64, G-66, M-85. PAFSC: 3E251 - Pavements & Construction Equipment Journeyman. DAS: 93/07/27.

b. Prior Sv: Enld as E-1 ARNG 84/12/14 for 8 yrs. Svd: 1 Yr 0 Mos 5 Days, AMS. PV1 (E-1) - 84/12/14. PV2 (E-2) - 85/12/04. PFC (E-3) - 86/11/13. SPC (E-4) - 87/09/17. SGT (E-5) - 88/04/05. SSGT (E-6) - 89/10/01.

3. **SERVICE UNDER REVIEW:**

a. Reenld in AFRes as SSGT (E-5) 93/07/27 for 6 yrs. Svd: 0 Yrs 4 Mos 15 Days, AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 12 Feb 97 - Failure to pay just debt.
LOR, 15 Jan 97 - Failure to pay just debt.
LOC, 17 Nov 96 - Failure to pay just debt.

f. CM: None.

g. Record of SV: None.

(Discharged from Barksdale AFB)

h. Awards & Decs: NDSM, ASR, AFTR, AFLSA, ARFMSM.

i. Stmt of Sv: TMS: (10) Yrs (10) Mos (8) Das
TAMS: (1) Yr (4) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/17
(Change Discharge to Honorable)

Issue 1: During this time of discharge I had filed for Bankruptcy in

Federal Court.

Issue 2: I fully repaid the debt owed.

Issue 3: I did not fully understand the discharge procedure and did not represent myself.

Issue 4: I had endured unusual home circumstances.

ATCH

1. Applicant's Letter to AFBCMR.
2. Copy of Discharge Package.
3. Medical Bill and Record of Father's Treatment.
4. Bankruptcy Documents.
5. Vehicle Repair Bills.
6. Death Certificate of Father.
7. Power of Attorney for Payment of Bills.

02/08/20/cr



DEPARTMENT OF THE AIR FORCE

AIR FORCE RESERVE

MEMORANDUM FOR CV

22 MAY 1997

FROM: JA

SUBJECT: Legal Review, Administrative Separation, SSgt [REDACTED]
[REDACTED]

1. [REDACTED] is being processed for separation from the Air Force Reserve for Misconduct, a Pattern of Misconduct, Failure to Pay a Just Debt, pursuant to AFI 36-3209, Paragraph 3.21.2. The preponderance of the evidence in the case file provides a sufficient legal basis for separation.
2. [REDACTED] is a Pavements and Construction Equipment Journeyman assigned to 307 RHIS, Barksdale AFB LA. He has over 10 years of creditable service. On 30 Apr 97, SSgt [REDACTED] was sent a Letter of Notification (LON) informing him of the separation action and of his right to a discharge board hearing. On 3 May 97, SSgt [REDACTED] acknowledged receipt of the LON but did not elect a hearing. His failure to make an election operates as a waiver of his right to a hearing.
3. The unit provided evidence in support of SSgt [REDACTED] separation action. SSgt [REDACTED] did not make any submissions. The evidence presented by the unit shows that SSgt [REDACTED] has had problems with his Government American Express Card account. Specifically, on 17 Nov 96, he dishonorably failed to pay on the debt owed and received a letter of counseling. On 15 Jan 97, he dishonorably failed to pay on the debt owed and received a Letter of Reprimand (LOR). Finally, on 12 Feb 97, he again dishonorably failed to pay on the debt owed and received a second LOR. He currently owes over \$1,000 to American Express.
4. Since SSgt [REDACTED] did not dispute the evidence submitted by his unit it can be presumed to be accurate. Failure to pay a debt is a basis for separation. AFI 36-3209, paragraph 3.21.2. The unit need only demonstrate the member was given a chance to overcome their financial problems prior to separating the member. In this case, the unit formally documented its three attempts to rehabilitate SSgt [REDACTED]. All three attempts met with failure and resulted in the initiation of discharge. Discharge is therefore, appropriate given the absence of any evidence in defense, mitigation or extenuation.
5. The commander recommended a General Discharge. The commander is in the best position to assess the overall quality of a reservist's military performance. Unless the evidence clearly contradicts the commander's position, the commander's recommendation should be sustained. In this case, there is no compelling reason to

separate SSgt [REDACTED] with anything less than a General Discharge. A General Discharge is consistent with the guidance provided in Attachment 2 of AFI 36-3209.

6. As the separation authority, you may separate SSgt [REDACTED] with an Honorable or a General Discharge. If you believe the evidence supports separation with an Under Other Than Honorable Conditions Discharge, you may direct that he be processed for separation with that characterization of service. Finally, you may retain SSgt [REDACTED]

7. RECOMMENDATION: Separate SSgt [REDACTED] with a General Discharge.

[REDACTED]
CAPT, USAF
Chief, Administrative Law

Attachment:
Case file



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND



30 APR 1997

MEMORANDUM FOR SSGT [REDACTED]
[REDACTED]

FROM: HQ AFRC/DP
155 2nd St
Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against you for misconduct, a pattern of misconduct, failure to pay just debts. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.2. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions. The type of separation recommended in your case is a General (Under Honorable Conditions) Discharge.

2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.

3. The following is a summary of your rights:

a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Captain [REDACTED], a Judge Advocate who is qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 155 2nd St, Robins AFB GA 31098-1635. Her phone numbers are DSN 497-1588, 1-800-458-5391, or (912) 327-1588.

b. You have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635.


c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.


Colonel, USAF
Director of Personnel

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/
Supporting Documentation
3. Acknowledgment of Receipt
4. Selection of Rights
5. Request for Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Envelopes (2)

cc:

HQ AFRC/JAS

917 MSS/DPMAR wo Attachments