AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) GRADE AFSN/SSAN CAPT (DECEASED) TYPE RECORD REVIEW X PERSONAL APPEARANCE YES NO ADDRESS AND OR ORGANIZATION OF COUNSEL NAME OF COUNSEL AND OR ORGANIZATION and Mrs. (Parents of Deceased Applicant) **MEMBERS SITTING** HON CEN **X*** X* **X**+ X* X^* INDEX NUMBER TENNET STATE OF THE STATE OF THE STATE OF ISSUES ORDER APPOINTING THE BOARD A94.06 A63.02 APPLICATION FOR REVIEW OF DISCHARGE 2 LETTER OF NOTIFICATION 3 HEARING DATE CASE NUMBER **BRIEF OF PERSONNEL FILE** 4 21 OCT 03 FD1999-00204-A COUNSEL'S RELEASE TO THE BOARD ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE TAPE RECORDING OF PERSONAL APPERANCE HEARING SICHALITY STONALE

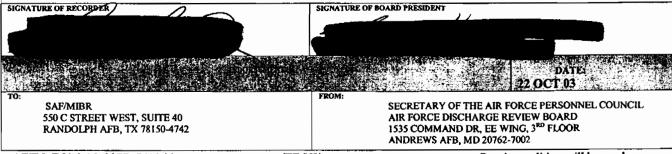
REMARKS

Case heard at HQ ARPC, Denver, Colorado

Change in Reason for Discharge to Secretarial Authority*.

Change in Reason for Discharge to Personality Disorder+.

Advise applicant of the decision of the Board.



AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-99-00204-A

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

The applicant's parents, Mrs. Share and Mr. Share and Mr.

The following additional exhibits were submitted at the hearing:

Exhibit 6: Mr. Activities and Accomplishments, May 1972-May 1984

Exhibit 7: Summary of Mr. Accomplishments in Later Years

Exhibit 8: Closing Summary Statement for the Board

Exhibit 9: Disabled American Veterans Letter, 11 July 2000

Exhibit 10: Correspondence from Dr. (1986) (6 letters)
Exhibit 11: Sleep Health Centers at National Jewish Medical & Research Center Correspondence (4 letters)

Exhibit 12: Research Article: One Explanation of Nef Gene Behavior (Authored by Applicant)

Exhibit 13: Research Article: Retroviral Antibody Binding of the MHC Class 2 Molecule in HIV Infection

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

FINDINGS: The discharge is upgraded to Honorable, and the reason for discharge is changed to Secretarial Authority.

The Board finds evidence of record and that provided by the applicant's parents, substantiates an impropriety that justifies an upgrade of the discharge. It is apparent from review of the case file that the command authorities may not have believed that Court-Martial was the appropriate forum to address the appellant's misconduct. Given this inference and other evidence provided, the Board concluded that the applicant's service should not have been handled via the RILO process, but rather through other administrative procedures. The Board concluded that it is unlikely that an administrative discharge board would have characterized the applicant's service as any less than General and could very likely have characterized it as Honorable. Therefore, the Board agreed that the characterization should be upgraded to Honorable.

ISSUES: The applicant received an Under Other Than Honorable Discharge – Voluntary Resignation for the Good of the Service. The applicant's principal issue, as articulated through his parents, is the applicant's discharge characterization was too harsh and does not represent an accurate assessment of the applicant's military service.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was not consistent with the procedural and substantive requirements of the discharge regulation. Specifically, the discharge authority's decision to restrict available options in the member's case to either a trial by Court-Martial or by Resignation was improper and raised significant concerns the member not offered the full due process available under the law.

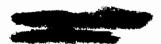
The applicant's characterization for discharge should be changed to Honorable under the provisions of Title 10, USC 1553, and the reason for separation changed to Secretarial Authority.

Attachment:

Examiner's Brief

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

FD99-00204-A



(Former CAPT) (REHEARING)

1. MATTER UNDER REVIEW: Appl rec'd a UOTH Dish fr USAF 92/09/30 UP AFR 36-12, Ch 2, Table 2-8, Rule 1 (Voluntary Resignation for the Good of the Service - In Lieu of Court Marital). Appeals for HON Disch.

2. OTHER FACTS:

- a. See attached cy of Examiner's Brief dtd 99/05/10.
- b. The AFDRB reviewed case on 99/06/09 (non-appearance w/o counsel) & concluded applicant's discharge should not be changed.
- 3. BASIS ADVANCED FOR REHEARING: Appl (DD Fm 293) dtd 99/07/07. (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

Atch

- 1. Examiner's Brief.
- 2. Applicant's Issues.
- 3. Supporting Documents.

00/01/04/ai

FD-99-00204

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



(Former CAPT) (MISSING DOCUMENTS)

1. MATTER UNDER REVIEW: Appl rec'd a UOTH Disch fr USAF 92/09/30 UP AFR 36-12, Chapter 2, Table 2-8, Rule 1 (Voluntary Resignation for the Good of the Service - In Lieu of Court Martial). Appeals for Honorable Disch.

2. BACKGROUND:

- a. DOB: 61/07/18. Enlmt Age: 26 8/12. Disch Age: 31 2/12. Educ: BAC/MAS. AFQT: N/A M-Unknown, A-Unknown, G-Unknown, E-Unknown. PAFSC: 9166 Aerospace Physiologist. DAS: 92/02/13.
 - b. Prior Sv: AFRes 88/04/04 88/06/06 (2 months 3 days) (Inactive).

3. SERVICE UNDER REVIEW:

- a. Apptd to 1st Lt, ResAF & Ordered to EAD 88/06/07. Svd: 4 Yrs 3 Mo 24 Das, all AMS.
 - b. Grade Status: Captain 90/05/05.
 - c. Time Lost: none.
 - d. Art 15's: none.
 - e. CM: none.
 - f. Record of SV: 88/06/07 89/01/07 Peterson AFB MS (Semiannual) 89/01/08 89/07/07 Peterson AFB MS (Semiannual) 89/07/08 90/01/07 Peterson AFB MS (Semiannual) 90/01/08 90/07/07 Peterson AFB MS (Semiannual) 90/07/08 91/07/07 Peterson AFB MS (Annual) (Discharged from Presidio of Monterey)
 - g. Awards & Decs: AFAM, AFOUA W/1 OLC, NDSM, AFLSAR, AFTR.
 - h. Stmt of Sv: TMS: (4) Yrs (5) Mos (27) Das TAMS: (4) Yrs (3) Mos (24) Das
- BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 99/03/16. (Change Discharge to Honorable)

Issues and Personal Statement attached to Brief.

EX4

FD-99-00204

ATCHS

- 1. Personal Statement.
- 2. Issues.
- 3. Legal Review.
- 4. List of Supporting Documents and Enclosures.

99/05/10/ia

PD99-00204-A

DD Form 293, Section 7, Supporting Document Number 1, Personal Statement, Page 1 of 4

Personal Statement

The purpose of this statement is to provide the background information necessary to upgrade my discharge. My initial discharge is based upon the fact that I was absent from my unit while awaiting discharge.

My service began as a Physiological Training Officer with the rank of 1st Lieutenant (Peterson AFB, September 1988-August 1991). While serving at Peterson AFB, I noticed several changes in my health that could not be explained by medical providers. Eventually my condition became sufficiently disabling that I sought help from the military medical establishment.

My medical evaluation was self-initiated because I found myself unable to participate in previously enjoyable activities such as running, hiking, and golfing. Prior to joining the Air Force, I competed in a local 5-kilometer race in my hometown. After the first mile, I led the race with a time of four minutes and 45 seconds, finishing in fifth place. At the time of my medical evaluation, I could not even complete a quarter of a mile without stopping to rest. In addition to running, I also enjoyed playing golf.

The medical evaluation was requested after a golfing experience with my Dad at the Air Force Academy. Normally, I walk 18 holes carrying a large golf bag. When I golfed with my Dad on this day, I was able to play nine holes, but only with the assistance of an electric golf cart. This experience was frustrating, confusing and frightening. Soon afterward, I abandoned sporting activities because I had only enough stamina to do my job.

My Flight Surgeon referred me to a physician whose medical specialty was Infectious Disease. After the initial consultation with this doctor, he agreed to perform laboratory tests, psychological tests and consultations necessary to determine the cause of my symptoms.

In addition, I expressed concern to this physician that I might have a relatively unknown and misunderstood illness called Chronic Fatigue Syndrome (CFS). The Infectious Disease Specialist expressed reservations about the legitimacy of this disease entity. However, he did agree in writing to contact authorities who were performing research and treating patients with this disorder.

Supporting Document Number 1, Personal Statement, Page 2 of 4

The results of my medical evaluation were inconclusive. No diagnoses were made for which I received medical treatment. In addition, the Infectious Disease Specialist did not fulfill his contractual agreement to consult an authority in the field of Chronic Fatigue Syndrome. His decision not to do so, was supported by my Flight Surgeon and my immediate supervisor.

Although I was returned to flying status shortly after my medical evaluation, I continued to struggle with my health. Difficulty with completing basic job related tasks, such as speaking in a classroom and reading accident reports, led me to seek civilian medical help.

Physiological Training Officers on flying status in the Air Force have a legal obligation to coordinate their health care treatment with the Flight Surgeon. The Flight Surgeon is responsible for the health care of air crew and support staff who fly in altitude chambers.

After several months of treatment from a civilian provider, I felt better able to perform the duties of my job. However, by seeking civilian medical help, I was now breaking Air Force regulations regarding medical treatment of members on flying status. My action to seek civilian medical help without knowledge of the Flight Surgeon could have led to a reprimand or discharge from the service. This dilemma caused me tremendous worry and eventually had a very negative impact on my health problem.

My service at Peterson AFB was successfully completed from September 1988 to August 1991. Despite my illness and personal worries surrounding the treatment of the illness, I feel that I served my unit well. During this time period, my Physiological training unit received "Excellent" and "Outstanding" ratings. In addition, I was promoted to Captain and received the Air Force Achievement Medal for meritorious service (Enclosure Number 11, Certificate of Discharge from Active Duty, undated, 1 page, highlighted).

My success at Peterson AFB was due largely to the very light teaching and work schedule at my unit. An average week included six hours of teaching and a two-hour flight in the altitude chamber. This light schedule permitted me to rest and avoid aggravating my illness.

In the spring of 1991, I received orders to attend the Defense Language Institute (DLI, Monterey, CA) for Spanish language training. The course work began in September 91 and required six hours of daily instruction, followed by 2-3 hours of homework each night.

Document 1, Page 2

Supporting Document Number 1, Personal Statement Page 3 of 4

The pace of this schedule caused a severe relapse of my condition. After two weeks of classroom training, I was physically unable to continue my studies.

Unfortunately, I overestimated my physical and cognitive abilities with respect to completing this assignment. Only a few years earlier, I had successfully completed a demanding Master's degree program. My prior academic success and limited experience in managing my illness led me to accept an assignment that was well beyond my physical capacity to achieve.

Prior to accepting the DLI assignment, I had received a specific request to do so from the Chief of my career field. In retrospect, I should have tendered my resignation from the service rather than accept the DLI assignment.

However, I also felt that I probably could not function for forty hours per week in a civilian job. Therefore, the DLI assignment was accepted hoping that I could survive it for nine months. The work load of my next assignment after the DLI training would have been similar to that of Peterson AFB.

Having moved from Colorado Springs to Monterey, I was without a medical provider for my illness. My former civilian provider in Colorado Springs continued to provide some assistance, but increasingly I was under pressure to find a new provider who could treat my illness. The burden of trying to find a new civilian physician familiar with my condition strongly contributed to a decline in my job performance.

During my stay at the DLI, I also attempted to find a military physician who might be familiar with my illness. If successful, I felt that such a physician might be willing to explain my condition to the Flight Surgeon at my next duty station. This critical action would have been a first step in getting a flying waiver for the medications I was taking for my illness. Unfortunately, my attempts at achieving this goal were unsuccessful.

In summary, I regret failing to accomplish my assigned duty. Additionally, I regret that my superiors and co-workers at the Defense Language Institute interpreted my initial classroom failure as a behavioral or disciplinary problem. This interpretation of my behavior led to further misunderstandings and reprimands.

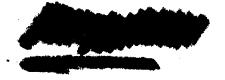
DD Form 293, Section 7, Supporting Document Number 1, Personal Statement, Page 4 of 4

Having never received reprimands or disciplinary action during my first three years in the service, I felt alienated and isolated from the command leadership after receiving these reprimands. During this time, I developed a chemical sensitivity to ammonia cleaning products that were commonly used at the DLI. This sensitivity prevented me from safely operating my automobile.

One reprimand that I received was a direct result of my physical response to ammonia cleaning agents. Although I reported to a military hospital after this incident, I was still reprimanded for doing so. This action by my commander seriously damaged our relationship and strongly influenced the incident leading to my AWOL status.

Please consider these circumstances of my service in your consideration of discharge upgrade. It is my feeling that I served the Air Force honorably despite having an illness that was essentially ignored by military providers.

Sincerely,



Supporting Document Number 2, Issues, Page 1 of 4

Issues

- 1. A memorandum was utilized for the purpose of finalizing the character of my discharge. The title of this document is "Memorandum For SAF/MIB" (Supporting Document Number 3, Memorandum For SAF/MIB, dated 25 September 1992, 4 pages). There are a number of inaccuracies in this memorandum addressed below (a-i).
- a) In paragraph four of the memorandum, there is a statement which reads "Comment in the case file indicates respondent was subsequently seen by an immunologist but refused to give blood necessary for blood tests."

This information is inaccurate and cannot be supported by notation or documentation from the immunologist who requested the blood work. This comment refers to an order that I received from my commander upon reporting to duty one morning. Upon arrival to the hospital that same morning, I was questioned by the medical technician about whether I had avoided food for the last 12 hours. Since the order had been given only hours before, I did not meet the conditions necessary to draw the blood. My commander was informed that I could give blood on the next day by fasting after 1800 hours. Still, he insisted that I was disobeying his order to give blood that morning.

b) Paragraph five reads "In January 1992, the commander became so frustrated with attempting to find a work situation for the respondent that he told him he did not have to report to work each day. However, the commander directed him to contact either the unit commander or unit executive officer telephonically each duty day not later than 0800 to see if he was required to report for duty."

This information is inaccurate. The unit commander was aware that I was struggling with a chronic health problem. He received a letter from my civilian physician. (Enclosure Number 1, D.O. Letter, dated 10Dec91, 1 page). The unit commander did require my presence at the unit during duty hours.

c) The bottom of paragraph four reads "he refused to return to another work assignment because he contended he had a reaction to the cleaning agents used by the janitorial staff and, therefore, the environment was unhealthy for him."

Supporting Document Number 2, Issues, Page 2 of 4

My reaction to the cleaning agents is verified in my medical records (Enclosure Number 2, Chemical Exposure Reaction, dated 14Nov91, 1 page) and (Enclosure Number 3, Cleaning Agent Inhalation, dated 22Nov91, 1 page).

d) The bottom of paragraph five reads "On January 30, 1992 respondent spoke to the commander who gave him a direct order to report to the unit within 30 minutes."

This statement is not an entirely accurate account of the incident. The court record of the pretrial conference indicates the commander used tactics of threat and intimidation while giving the order by telephone. He stated that I was AWOL and the OSI (Office of Special Investigations) had a warrant out for me. In addition, he would not answer when I asked what was going to happen when I reported to the unit.

This was a reasonable question deserving of a straightforward answer. The commander's failure to communicate with me under this circumstance strongly influenced my next action, which was to leave the area. At issue, is whether the commander's actions served to aggravate the incident.

e) Paragraph five states "Respondent disobeyed this order and did not return until apprehended by civil and military authorities on February 21,1992."

This statement is completely false. There was no "apprehension." In full uniform, I appeared in the commander's office on February 21. Two unit security officers showed up at my local motel room with two police officers. Since the unit security officers did not have authority outside the base, my willingness to accompany them indicates cooperation rather than apprehension. There is no question that I could have legally walked away from both military and civilian officers without being detained.

f) The bottom of paragraph five states "The commander also directed a medical and mental health evaluation which was completed on an in-patient basis from February 24 - April 3, 1992."

This statement suggests the commander acted responsibly regarding my health. However, the presiding judge at my pretrial hearing determined there were sufficient grounds for me to pursue a charge of illegal pretrial confinement against the unit commander.

Supporting Document Number 2, Issues, Page 3 of 4

The unit commander did not utilize the available mental health professionals stationed at nearby Fort Ord to evaluate my mental condition. Instead, he himself evaluated my mental condition and ordered me to the emergency room at Travis AFB. The unit commander then proceeded to manipulate the medical system by telephoning and attempting to influence the emergency room secretary. The emergency room doctor asked me how I felt, and he was told that I felt fine.

This doctor, then discussed my recent actions with the squadron commander and security officer. The doctor then informed me that I was being admitted to the inpatient mental health ward "because I was having difficulty making good decisions." This was a reference to my previous AWOL status.

The medical record does not state that I was admitted to inpatient status for any medical reason whatsoever. This was clearly an illegal pretrial confinement as suggested by the presiding judge at my pretrial hearing.

g) Paragraph six begins with "Respondent is convinced he suffers from Chronic Fatigue Syndrome (CFS) and he's obsessed with his medical condition."

One important issue regarding my discharge upgrade, is whether I actually had this illness while I was in the Air Force. Enclosed is medical summary from a licensed neuropsychologist who specializes in the diagnosis and treatment of Chronic Fatigue Syndrome. (Supporting Document Number 4 , Dr. Letter, dated 1March99, 6 pages). The letter states that I did have this illness while I was in the service.

h) Paragraph six states "He had a complete evaluation for CFS at his previous duty station and medical personnel could find no confirmation or support for that diagnosis."

This statement is not accurate. The medical record clearly documents a written agreement for such an evaluation, but the consultation necessary to complete this evaluation never occurred.

99-00204A

Supporting Document Number 2, Issues, Page 4 of 4

The contract between myself and Dr. (Lt. Colonel) is enclosed (Supporting Document Number 5, Infectious Disease Service Report, dated 17 Jan 1990, see highlighted paragraph 1 on page 4, 4 pages). Dr. Clearly states in the contract "I have agreed at the completion of our initial evaluation to discuss the case with current authorities in the field of chronic fatigue syndrome, to include possibly the National Institutes of Health, possibly National Jewish Hospital." This critical component of our contractual agreement was not fulfilled by the physician.

This single action by a senior military officer prevented me from receiving a proper diagnosis for my condition. Subsequently, I did not receive the education and immediate treatment necessary to successfully manage my illness.

i) The board members deciding my discharge were clearly under the false impression that I suffered from a character or behavior disorder. Paragraph eight states "The counsel (ADC) contends respondent's behavior can be directly related to and identified as a manifestation of his psychological disorder and considering the circumstances acceptance of the resignation is warranted."

Paragraph nine begins, "The board members noted respondent's misconduct may be related to his character and behavior disorder; etc."

It probably was not appropriate for the ADC to discuss the subject of behavioral disorders with the board. The matter of whether a behavioral disorder can influence personal conduct was not within the expertise and training of the ADC.

Enclosure Number 12, Master List - Supporting Documents and Enclosures for Sections 7 and 8, Page 1 of 3

List of Supporting Documents

Supporting Document Number 1, DD Form 293, Section 7, Personal Statement, 4 pages

Supporting Document Number 2, DD Form 293, Section 8, Issues, 4 pages

Supporting Document Number 3, DD Form 293, Section 7, "Memorandum For SAF/MIB," dated 25 September 1992, 4 pages, highlighted

Supporting Document Number 4, DD Form 293, Section 7, Dr.

Supporting Document Number 5, DD Form 293, Section 7, Infectious Disease Service Report, dated 17 January 1990, 4 pages, highlighted

Supporting Document Number 6, DD Form 293, Section 7, Infectious Disease Service Report, dated 28 February 1990, 3 pages, highlighted

Supporting Document Number 7, DD Form 293, Section 7, Neuropsychological/Psychological Assessment, 22 January 1990, 8 pages, highlighted

Supporting Document Number 8, DD Form 293, Section 7, Medical Records Review Abstract, undated, 2 pages, highlighted

Supporting Document Number 9, DD Form 293, Section 7, Medical Center Evaluation, Travis AFB, dated 24 Feb 92, 9 pages, highlighted

Enclosure Number 12, Master List - Supporting Documents and Enclosures for Sections 7 and 8, Page 2 of 3

List of Enclosures

Enclosure Number 1, DD Form 293, Section 7, D.O. letter, dated 10 December 1991, 1 page, highlighted

Enclosure Number 2, DD Form 293, Section 7, Chemical Exposure Reaction, dated 14 November 1991, 1 page, highlighted

Enclosure Number 3, DD Form 293, Section 7, Cleaning Agent Inhalation, dated 22 November 1991, 1 page, highlighted

Enclosure Number 4, DD Form 293, Section 7, Chronic Fatigue Syndrome: A Working Case Definition, dated 1988, 3 pages, highlighted

Enclosure Number 5, DD Form 293, Section 7, National Institutes of Health (NIH) Publication NO. 90-484, dated 10 October 1990, 12 pages, highlighted

Enclosure Number 6, DD Form 293, Section 7, Medical Scientific Update: Chronic Fatigue Syndrome, dated March 1988, 5 pages, highlighted

Enclosure Number 7, DD Form 293, Section 7, Concern Over Inability to Receive Authorized Medical Treatment Documents, dated 27 November 1991, dated 19 December 1991, dated 15 September 1992, 4 pages total, highlighted

Enclosure Number 8, DD Form 293, Section 7, Statement, Navy Enlisted student at the Defense Language Institute, dated 24 March 92, 1 page

Enclosure Number 9, DD Form 293, Section 7, Centers for Disease Control (CDC) Abstract Samples, dated 13 October 1998, 8 pages, highlighted

Enclosure Number 10, DD Form 293, Section 7, Chronic Multisymptom Illness Affecting Air Force Veterans of the Gulf War, dated 16 September 1998, 8 pages, highlighted

Enclosure Number 11, DD Form 293, Section 7, Certificate of Discharge from Active Duty, Undated, 1 page, highlighted

Enclosure Number 12, DD Form 293, Section 7, Master List - Supporting Documents and Enclosures for Sections 7 and 8, 3 Pages (This Document)

Enclosure Number 12, Page 2

Enclosure Number 12, Master List - Supporting Documents and Enclosures for Sections 7 and 8, Page 3 of 3

List of Enclosures Continued

Enclosure Number 13, DD Form 293, Section 7, Dr. Introduction Letter, dated 1 March 99, 1 page (attached to Supporting Document Number 4)

Enclosure Number 14, DD Form 293, Section 7, Dr. Professional biography, undated, 1 page

Enclosure Number 15, DD Form 293, Section 7, Dr. QEEG Neurological Examination, undated, 10 pages