

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN	
		AMN		
TYPE GEN	PERSONAL APPEARANCE	X RECORD REVIEW		
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL		
YES	NO			
	X			

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
	X*				
					X
	X*				
	X*				
					X

ISSUES A94.02, A94.06, A92.22	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
HEARING DATE 03-01-03	CASE NUMBER FD2002-0301	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	

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

REMARKS

***Change Reason and Authority to Secretarial Authority**

Case heard at Washington, D.C.

Advise applicant of the decision of the Board.

INDORSEMENT		DATE: 03-01-07
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

FD2002-0301

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

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

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

FINDINGS: The Board grants the requested relief.

The Board finds that neither the evidence of record or that provided by the applicant substantiates an impropriety that would justify upgrade of the discharge. However, after a thorough review of the record, the Board finds that the applicant's character of discharge and reason for discharge are inequitable.

Issues. The applicant was discharged with an under honorable conditions (general) discharge for minor disciplinary infractions. Member had one Letter of Reprimand, and two Records of Individual Counseling. There were also four memos for record documenting alleged disciplinary infractions. At the time of the discharge processing, member submitted a statement in her own behalf, noting irregularities in the processing of her various disciplinary actions, her desire for improved supervision and guidance, requesting to be retained, or in the alternative, offered probation and rehabilitation. The Discharge Review Board noted that all but the last of member's incidents of misconduct apparently occurred in November 1993. A discharge package processed in December of 1993 was withdrawn, after which time it appears member had no further problems until she deployed in June of 1994. The document authored by her deployed supervisor, Lt Col [redacted], to her home station commander after member was returned 4 days early from her TDY in September 1994, listed various alleged incidents. This was apparently the triggering document for the discharge, but did not note anything other than verbal counselings rendered while she was deployed. The Board further noted that member's post-service conduct, performance as civil servant, and volunteer work have been stellar, as evidenced by many laudatory character references and performance appraisal documents. These would lead one to conclude applicant's character now is inconsistent with her character as portrayed in the discharge documents. While the Board did not condone applicant's alleged incidents of misconduct, some of which she infers did occur, they did feel it would have been more equitable to allow her a period of probation and rehabilitation, or to have completed her period of service with her service characterized as honorable.

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 also 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. The applicant's characterization and reason for discharge 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 AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 94/12/13 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 75/02/25. Enlmt Age: 17 8/12. Disch Age: 19 9/12. Educ: HS DIPL. AFQT: N/A. A-80, E-46, G-50, M-54. PAFSC: 3A031 - Information Management Apprentice. DAS: 93/10/08.

b. Prior Sv: (1) AFRes 92/10/28 - 93/06/17 (7 Mos 20 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 93/06/18 for 4 yrs. Svd: 1 Yr 5 Mos 26 Das, all AMS.

b. Grade Status: AMN - 93/12/18

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 12 OCT 94 - Unprofessional attitude and behavior.
MEMO, 29 SEP 94 - Lack of desire to be a team player and less than professional attitude.
RIC, 29 NOV 93 - Conduct unbecoming.
RIC, 29 NOV 93 - Disrespect towards an NCO.
MFR, 24 NOV 93 - Counseled on duty hours.
MFR, UNDATED - Counseled on attitude and how to address military members senior to her.
MFR, 4 NOV 93 - Counseled on attitude, chain of command, respect for authority, and how to address military members senior to her.

f. CM: None.

g. Record of SV: None.

(Discharged from Wright Patterson AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (1) Mo (16) Das
TAMS: (1) Yr (5) Mos (26) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/07/11.
(Change Discharge to Honorable)

Issue 1: I have attached the original discharge package for your review. As you will read it you will see that I was 18-years old, new to the AF, and in a unit that didn't want me there. My discharge package was not given fair and decent consideration, and I was not given appropriate legal counsel. I have read the package, my first thought was that I didn't show everyone the proper military customs and courtesies as I should have. My second thought was I honestly don't believe I should have been discharged from the AF. If I had been given the legal (sic) counsel that I was entitled to my discharge would have never taken place. I have had a very rough time trying to forgive myself, and an even tougher time with getting over the stigma that comes from being "kicked" out of the military. After my discharge I didn't work, actually couldn't work for 6 months because I was so depressed. I picked myself up and found someone who gave me an HONEST chance, and because of that I (sic) been very successful.

I worked as a legal secretary for 4 years, which led into a job opportunity as a court reporter. When my husband got assigned to Eielson AFB work was very limited and someone suggested Civil Service. I was to say the least, terrified. I was afraid to fail again but I gave myself a chance to prove that I was worthy, and they were wrong. I was hired as a commander's secretary in a very prominent squadron. I recently went TDY to Washington, DC for EEO Counselor training and intend on continuing my career with the government in that field.

I am a team player, I am respectful, trustworthy, and I do have integrity. All that I needed was a chance in a positive environment which the AF never gave me. I am asking that my records be changed to reflect my true character, I believe that I have proven myself worthy and honorable as I always have been. Though I am no longer a part of your team I am happy working along side of you and desire to once again be a part of the AF. I believe that my discharge is keeping me from achieving my full potential, it is not only a loss to me but to the government.

ATCH

1. Discharge Documents.
2. Letters of Recommendation.
3. Civilian Appraisals.
4. Performance Awards.
5. Letters of Appreciation.

02/10/23/cr



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS 52D TACTICAL FIGHTER WING (USAFE)
 APO NEW YORK 09128-5000

1 NOV 1994

MEMORANDUM FOR 52 FW/CC

FROM: 52 FW/JA

SUBJECT: Legal Review of Administrative Discharge -

1. I reviewed the administrative discharge action against [redacted] It is in substantial compliance with the provisions of AFR 39-10 and otherwise legally sufficient to support discharge.

2. BASIS FOR ACTION: Administrative discharge action against [redacted] is based upon minor disciplinary infractions pursuant to AFR 39-10, paragraph 5-46. The infractions consist of the following:

a. During the week of 18-22 Oct 93, she was disrespectful to an NCO and she was unwilling to comply with the requirement to move into her assigned dorm room. She was verbally counseled on her attitude (Atch 1).

b. On or about 4 Nov 93, she was disrespectful to [redacted]. She was verbally counseled on her attitude and her lack of respect for authority, and how to properly address military members senior to her (Atch 2).

c. On or about 23 Nov 93, she wrongfully left her duty section before the end of the duty day, and when counseled about it, she was disagreeable towards the commander regarding her duty hours. For this action she received a Record of Counseling dated 29 Nov 93 (Atch 3), and a Memo for Record dated 24 Nov 93 (Atch 4).

d. On or about 24 Nov 93, she was disrespectful and rude toward an NCO. She received a Record of Counseling dated 29 Nov 93 (Atch 5).

e. On or about 30 Jun - 21 Sep 94, while TDY to Vicenza, Italy, her unprofessional attitude and lack of desire to comply with standards resulted in her early return to Spangdahlem AB at the order of [redacted] Director of Administration (Atch 6). She received a Letter of Reprimand dated 12 Oct 94 (Atch 7).

f. On or about 5 Oct 94, she was notified that her promotion to A1C was being withheld. The specific reason for this action was that she was placed on the control roster (Atch 8).

3. MATTERS FOR RESPONDENT:

a. The respondent enlisted in the Air Force on 18 Jun 93 and has one year and four months of active duty service. The respondent does not have an EPR because she does not have the time in service requirement of 20 months. She is 19 years old, and her AQE scores are A-80, E-46, G-50, and M-54.

b. On 18 Oct 94, the respondent consulted legal counsel. On 25 Oct 94, submitted statements on her own behalf. She asks that you retain her in the Air Force, or in the alternative that probation and rehabilitation be granted. She states that many of the events are distorted, not well documented or inaccurate. She places part of the blame on the failure of others to train her or properly guide her. In addition, she has also submitted nine statements in her behalf (Tab 3).

4. DISCUSSION:

a. On 1 Nov 94, recommended that be discharged from the Air Force with a general discharge without P&R.

b. The discharge is being processed under AFR 39-10, paragraph 5-46, which provides that an airman may be discharged for minor disciplinary infractions. Despite numerous opportunities to modify her behavior, has continued to engage in acts which were prejudicial to good order and discipline. Her receipt of two Letters of Reprimand, and numerous counselings over the past nine months are inconsistent with continued military service and warrant her immediate discharge.

5. ERRORS AND IRREGULARITIES: There are no errors or irregularities which prejudice the substantial rights of the respondent.

6. CHARACTERIZATION OF SERVICE: Honorable discharges are only appropriate when an airman's service generally has met Air Force standards of acceptable conduct and performance of duty, or their service is otherwise exceptionally meritorious. Based upon disciplinary record, and the seriousness of her last offense, she does not deserve an Honorable discharge. On the other hand, an Under Than Honorable Conditions (UOTHC) discharge is only given for more serious misconduct, such as use of force or violence in inflicting bodily injury or death, abuse of a special position of trust, or acts or omissions which endanger the health, safety and welfare of others or the security of the United States. It does not appear that misconduct rises to that level. A General discharge is appropriate, since the significant negative aspects outweigh the positive aspects of her military career.

7. PROBATION AND REHABILITATION (P&R): Probation and rehabilitation is appropriate in special and limited circumstances, primarily when a member has demonstrated a strong potential for reform. disciplinary record indicates that the rehabilitative measures which have been employed to date have had little or no effect on her conduct. There is no reason to believe that, given one more opportunity, will conform to minimally acceptable Air Force standards in the future. Therefore, I do not recommend probation and rehabilitation in this case.

8. ACTIONS WHICH MAY BE TAKEN: As the Special Court-Martial convening authority, you have the following options:

- a. Direct that the respondent be retained in the Air Force.
- b. Recommend that HQ 17 AF/CC discharge the respondent with an honorable discharge, with or without P&R.
- c. Discharge the respondent with a general discharge, with or without P&R.

d. Direct the reissuance of the notification for board processing if you think a UOTHC discharge is appropriate in this case.

9. RECOMMENDATION: That you discharge _____ for minor disciplinary infractions under the provisions of AFR 39-10, paragraph 5-46, with a general discharge and without P&R.

Attachment:
Case File



DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR

52d Logistics Support Squadron

FROM: 52 LSS/CC

18 Oct 94

~~SUBJECT:~~ Notification Letter

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFR 39-10, paragraph 5-46. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. During the week of 18-22 Oct 93, you were disrespectful to an NCO and you were unwilling to comply with the requirement to move into your assigned dorm room. You were verbally counseled on your attitude (Atch 1).

b. On or about 4 Nov 93, you were disrespectful to . . . You were verbally counseled on your attitude and your lack of respect for authority, and how to properly address military members senior to you (Atch 2).

c. On or about 23 Nov 93, you wrongfully left your duty section before the end of the duty day, and when counseled about it, you were disagreeable towards the commander regarding your duty hours. For this action you received a Record of Counseling dated 29 Nov 93 (Atch 3), and a Memo for Record dated 24 Nov 93 (Atch 4).

d. On or about 24 Nov 93, you were disrespectful and rude toward an NCO. You received a Record of Counseling dated 29 Nov 93 (Atch 5).

e. On or about 30 Jun - 21 Sep 94, while TDY to Vicenza, Italy, your unprofessional attitude and lack of desire to comply with standards resulted in your early return to Spangdahlem AB at the order of . . . Director of Administration (Atch 6). You received a Letter of Reprimand dated 12 Oct 94 (Atch 7).

f. On or about 5 Oct 94, you were notified that your promotion to A1C was being withheld. The specific reason for this action was that you were placed on the control roster (Atch 8).

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult

at Bldg 151, Spangdahlem AB, Germany, on 18 Oct 94 at 1500 hours.
You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 21 Oct 94, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. If you fail to consult counsel or to submit statements in your own behalf, your ~~failure will~~ constitute a waiver of your right to do so.

6. No separation physical is required, as your entry physical is good for two years.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, Atch 2. A copy of AFR 39-10 is available for your use in the Orderly Room.

8. Execute the attached acknowledgment and return it to me immediately.

USAF

Commander

Attachments:

1. MFR, undtd
2. MFR, undtd
3. AF Form 174, 29 Nov 93
4. AF Form 174, 29 Nov 93
5. ATAF Ltr, 29 Sep 94
6. LOR, 12 Oct 94
7. Control Roster