

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AMN	AFSN/SSAN [REDACTED]
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	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A92.37, A01.13, A01.43	INDEX NUMBER A67.30	EXHIBITS SUBMITTED TO THE BOARD		
		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	
			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

Case heard at Washington, D.C.

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.

SIGNATURE OF RECORDER <i>[Signature]</i>	SIGNATURE OF BOARD PRESIDENT <i>[Signature]</i>
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ENDORSEMENT	DATE: 03-05-08
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

FD2002-0383

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: Upgrade of discharge is denied.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant was discharged for misconduct. Although all documents pertaining to applicant's discharge proceeding are missing and unavailable for review, applicant referenced being arrested for grand larceny after deposit funds were missing from a civilian sports store he worked at before entering the military. Although the deposit was missing before member entered the Air Force, he was arrested after a considerable amount of time had passed and he was on active duty. Applicant states he pled "no contest" because he didn't have the money to hire a lawyer and was afraid he wouldn't be able to clear his name. Although the discharge documents could not be located for review, the Sentencing Order from the Circuit Court of Arlington County, Virginia, dated May 6, 1999, disclosed that pursuant to a plea agreement, although member protested his innocence, he pled guilty to the offense of Grand Larceny and was therefore found guilty of said offense and sentenced to 3 years in the Virginia Department of Corrections, suspended contingent on his making restitution to the retail store, paying court costs and attorney fees. Furthermore, review of local civilian law enforcement investigative records disclosed applicant clearly had control of the disputed funds and forged the bank verification sheet to prove he had deposited the money. What applicant didn't know was that the person whose signature he had forged was not working at the bank at that time, or that other businesses that had made their money drops, had them all properly recorded. There had previously been some mechanical problems with the bank's night depository wherein some deposits had disappeared, but applicant also did not know those problems had been satisfactorily resolved before the deposit from the sports store went missing. The file further disclosed that applicant had been warned he needed to come into the police department to undergo a polygraph exam before departing for Air Force training. When he failed to do so, the case went forward for an indictment. Records review further disclosed member was also the subject of a suicide attempt in September 1998 after he and his wife argued regarding his alleged infidelity while in technical school. In the absence of documentary evidence to the contrary, the Board could find no wrongful action by the Air Force and applied the presumption of regularity in determining there was no inequity or impropriety in the processing of member's discharge.

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.

In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:
Examiner's Brief

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

MISSING DOCUMENTS

[REDACTED]
[REDACTED]
(Former AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 17 DEC 99 UP AFI 36-3208 (Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Mar 76. Enlmt Age: 20 10/12. Disch Age: 23 9/12. Educ: HS DIPL. AFQT: N/A. A-77, E-86, G-78, M-46. PAFSC: 3C032 - Communications-Computer Systems Programmer Apprentice. DAS: Unknown.

b. Prior Sv: (1) AFRes 31 Jan 97 - 13 Jan 98 (11 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Jan 98 for 4 yrs. Svd: 1 Yrs 11 Mo 3 Das, of which AMS is 1 yr 10 months 13 days (excludes 21 days lost time).

b. Grade Status: AMN - 4 Aug 98

c. Time Lost: 24 Feb 99 thru 17 Mar 99 (21 days).

d. Art 15's: Unknown.

e. Additional: Unknown.

f. CM: None.

g. Record of SV: None.

(Discharged from Offutt AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (9) Mos (26) Das
TAMS: (1) Yrs (10) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 5 Aug 02.
(Change Discharge to Honorable)

Issue 1: Before I entered the Air Force, I was an Assistant Manager at a sports store. There was a deposit that came up missing about one month before I went to basic training that was a significant enough amount for legal

intervention. We were all questioned, but one Cop in particular told me that he thought I did it and would prove it. I cooperated 100% with the police and told them everything that I knew. Before I went to basic training, I spent 2 weeks in California and 2 weeks in North Carolina. I told the police my whereabouts and gave them ALL of my contact information. One of them asked if I would agree to a lie-detector test, and I said "yes". He never called me, and neither did anybody else from the police department, so I thought it was dropped. Nex (sic) thing I know, close to a year later, I got arrested at Offutt Air Force Base because there is a warrant for my arrest for charges of grand larceny. I didn't have the money for a lawyer, and I was scared to death that I may not have enough evidence to clear my name, so I plead "No Contest" to the charges and was released from the Air Force.

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None.

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