

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN				
		AMN					
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL YES NO X		NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL			
MEMBERS SITTING			VOTE OF THE BOARD				
			HON	GEN	UOTHC	OTHER	DENY
							X
							X
							X
							X
ISSUES A93.09		INDEX NUMBER A67.10		EXHIBITS SUBMITTED TO THE BOARD			
				1	ORDER APPOINTING THE BOARD		
HEARING DATE 26 FEB 03		CASE NUMBER FD2002-0390		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			SIGNATURE OF BOARD PRESIDENT				
INDORSEMENT			DATE: 26 FEB 03				
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 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002				

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0390

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

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:** Upgrade of discharge is denied.

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

**ISSUE:** Applicant does not contest the discharge; he merely wants it upgraded in order to receive his G.I. Bill benefits. The record indicates the applicant received two Article 15's for a DUI and assault. He also received a Vacation action of a suspended UCMJ action for failure to go. And, he received a Letter of Reprimand for playing his stereo too loud. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety that would warrant an upgrade. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the 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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 23 Jun 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 25 Jun 77. Enlmt Age: 17 10/12. Disch Age: 20 11/12. Educ: HS DIPL. AFQT: N/A. A-77, E-81, G-84, M-72. PAFSC: 2A636 - Aircraft Electrical & Environmental System Apprentice. DAS: 18 May 96.

b. Prior Sv: (1) AFRes 12 May 95 - 17 Oct 95 (5 months 6 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 Oct 95 for 4 yrs. Svd: 2 Yrs 8 Mo 6 Das, all AMS.

b. Grade Status: AMN - 23 Dec 97 (Article 15, Vacation, 23 Jan 98)  
A1C - 18 Feb 97  
AMN - 18 Apr 96

c. Time Lost: None.

d. Art 15's: (1) 6 May 98, Aviano AB, Italy - Article 81. You, did, at or near Marsure, Italy, on or about 3 Apr 98, conspire with SrA -----, Amn -----, and SrA ----- to commit an offense under the Uniform Code of Military Justice, to wit: assault, and in order to effect the object of conspiracy you, SrA -----, Amn -----, and Sra ----- did follow A1C -----, block a door to prevent others from entering, and assault the said A1C ----- Article 107. You, did, on or about 4 Apr 98, with intent to deceive, make to SMSgt -----, an official statement, to wit: you did not see any fighting at all, which statement was totally false, and was then known by you to be so false. Article 128. You, did, at or near Marsure, Italy, on or about 3 Apr 98, assault A1C ----- by holding a door closed and preventing others from entering while SrA -----, Amn -----, and SrA ----- did unlawfully strike the said A1C ----- in the face and stomach with their fists and feet. Suspended reduction to AB, forfeiture of \$250.00 pay per month for 2 months; and a reprimand. (No appeal) (No mitigation)

- (2) 23 Jan 98, Vacation, Aviano AB, Italy - Article 86.  
You, did, between on or about 31 Dec 97 and on or about  
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1 Jan 98, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn. (No appeal) (No mitigation)

- (3) 23 Dec 97, Aviano AFB, Italy - Article 111. You did, at or near Pordenone, Italy, on or about 6 Dec 97, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in your blood was 0.10 grams of alcohol per 100 milliliters of blood or greater, as shown by chemical analysis. Suspended reduction to Amn, forfeiture of \$505.00 pay per month for 2 months; 45 days extra duty; and a reprimand. (No appeal) (No mitigation)

e. Additional: LOC, 26 AUG 97 - Playing stereo too loud.

f. CM: None.

g. Record of SV: 18 Oct 95 - 17 Jun 97 Aviano AB 5 (Initial)

(Discharged from Wright-Patterson AFB)

h. Awards & Decs: AFTR, NDSM, NATOM, AFSM, AFOSLTR.

i. Stmt of Sv: TMS: (3) Yrs (1) Mos (12) Das  
TAMS: (2) Yrs (8) Mos (6) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 Sep 02.  
(Change Discharge to Honorable)

Issue 1: I received a general discharge under honorable conditions. I request to have my discharge upgraded to "Honorable" so that I can receive my G.I. Bill benefits to further my education and support my family.

**ATCH**

1. Applicant's Letter to the Air Force Discharge Review Board.

16DEC02/ia

DEPARTMENT OF THE AIR FORCE  
31st Fighter Wing (USAFE)

26  
19 May 98

MEMORANDUM FOR [REDACTED]

SSAN: [REDACTED]

FROM: 31 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, para 5.49, Minor Disciplinary Infractions. This action could result in your separation with an Under Other Than Honorable Conditions discharge. I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reasons for this action are as follows:

a. You, did, at or near Marsure, Italy, on or about 3 Apr 98, conspire with [REDACTED] and [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: assault, and in order to effect the object of conspiracy, you, Senior Airman [REDACTED], Airman [REDACTED] and Senior Airman [REDACTED] did follow Airman First Class [REDACTED], block a door to prevent others from entering, and assault the said Airman First Class [REDACTED]. For this offense, you received nonjudicial punishment dated 6 May 98, which included the following punishment: reduction to the grade of E-1 (Airman Basic), suspended until 5 Nov 98, after which time it will be remitted without further action, unless sooner vacated; forfeiture of \$250 pay per month for two months; and a reprimand.

b. You, did, at or near Aviano Air Base, Italy, on or about 4 Apr 98, with intent to deceive, make to Senior Master Sergeant [REDACTED], an official statement, to wit: you did not see any fighting at all, which statement was totally false, and was then known by you to be so false. This offense is evidenced in your 6 May 98 nonjudicial punishment.

c. You, did, at or near Marsure, Italy, on or about 3 Apr 98, assault Airman First Class [REDACTED] by holding a door closed and preventing others from entering while Senior Airman [REDACTED], Airman [REDACTED], and Senior Airman [REDACTED] did unlawfully strike the said Airman First Class [REDACTED] in the face and stomach with their fists and feet. This offense is evidenced in your 6 May 98 nonjudicial punishment.

d. You, did at Aviano Air Base, Italy, between on or about 31 Dec 97 and on or about 1 Jan 98, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the security police gate assigned to you by MSgt [REDACTED], NCOIC of Security Forces Law Enforcement, for the purpose of handing out fliers. For this offense, the suspended portion of your nonjudicial punishment dated 23 Dec 97, reducing you to the grade of E-2 (Airman) was vacated reducing your rank to Airman effective 23 Dec 97.

e. You, did, at or near Pordenone, Italy, on or about 6 Dec 97, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in your blood was 0.10 grams of alcohol per 100 milliliters of blood or greater, as shown by chemical analysis. For this offense, you received nonjudicial punishment dated 23 Dec 97, which included the following punishment: reduction to the grade of E-2 (Airman), suspended until 22 Jun 98, unless sooner vacated; forfeiture of \$505.00 pay per month for two months; 45 days extra duty; and a reprimand.

f. On or about 15 Aug 97, you did violate the Aviano Air Base Dormitory Standards as set forth in Aviano Pamphlet 32-6001 by playing your stereo too loud. For this infraction, you received a Letter of Counseling dated 26 Aug 97.

I have attached copies of the supporting documents that will be forwarded to the separation authority. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you may be ineligible for reenlistment in the Air Force. In addition, any special pay, bonus, or education assistance funds may be subject to recoupment.

3. You have the right to consult counsel. Military legal counsel is available to assist you. I have made an appointment for you to consult [REDACTED], Area Defense Counsel, at Building 134, Area 1, on ASAP 1998 at \_\_\_\_\_ hours. You may consult civilian counsel at your own expense.

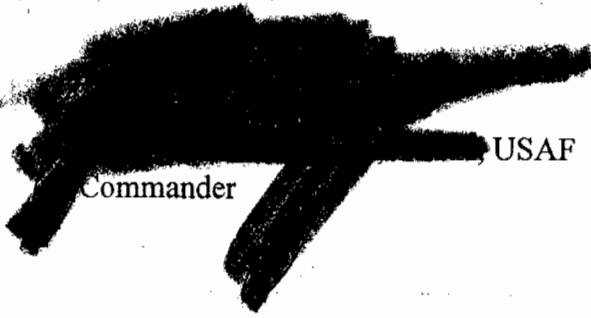
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1600 hours on 29 May 98 1998 unless you request and receive an extension for good cause shown. I will forward your statements to the separation authority.

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. You will report for two medical examinations. You are to report to the 31 FW/SGOAF (Physical Exams) on 3 JUN 1998 at 1100 hours. Your second appointment is on TBA 1998 at \_\_\_\_\_ hours. You will need to report 15 minutes prior to your appointment and pick-up your medical records.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208 is available for your use in the unit orderly room or ADC office.

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



Commander

USAF

Attachments:

1. Art 15, 6 May 98 w/ atchs;  
AF Form 366, 23 Jan 98 w/ atchs;  
Art 15, 23 Dec 97 w/ atchs;  
LOC, 26 Aug 97.
2. Airman's receipt of notification memorandum