

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px;"></div>		GRADE  AMN	AFSN/SSAN <div style="background-color: black; width: 100px; height: 15px;"></div>				
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		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 A94.05		INDEX NUMBER A67.30		EXHIBITS SUBMITTED TO THE BOARD			
HEARING DATE 11 Apr 03		CASE NUMBER FD2002-0442		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 RATIONAL 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: 11 APR 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

FD2002-0442

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable, and change of reenlistment eligibility (RE) 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:** Upgrade of discharge and change of RE code are denied.

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

The applicant's issues are listed in the attached brief.

Issue. Applicant contends discharge was inequitable because it was based on one isolated incident. The information provided by the applicant and contained in his records was carefully reviewed by the DRB. The records indicated that Special Court Martial charges were preferred. The misconduct included unlawfully striking his wife, adultery, and communicating a threat. The board concluded the misconduct outweighed the otherwise satisfactory performance of this member.

**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 and change of RE code, 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

[REDACTED]  
[REDACTED]  
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 23 JAN 96 UP AFI 36-3208, para 5.52 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 1 Sep 74. Enlmt Age: 18 10/12. Disch Age: 21 4/12. Educ: HS DIPL. AFQT: N/A. A-67, E-50, G-50, M-77. PAFSC: 2E031 - Fuels Apprentice. DAS: 7 Dec 94.

b. Prior Sv: (1) AFRes 27 Jul 93 - 2 Sep 93 (1 month 7 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Sep 93 for 4 yrs. Svd: 2 Yrs 4 Months 20 Days, of which AMS is 2 yrs 2 months 19 days (excludes 2 months 2 days lost time).

b. Grade Status: AMN - 22 Dec 95 (SPCMO# 4, 22 Dec 95)  
A1C - 3 Jan 95  
AMN - 3 Mar 94

c. Time Lost: 19 Oct 95 through 20 Dec 95 (2 months 2 days).

d. Art 15's: None.

e. Additional: None.

f. CM: Special Court Martial Order No.4 - 22 Dec 95

CHARGE 1: Article 128. Plea: Guilty. Finding: Guilty.

Specification: Did, in Wichita, Kansas, on or about 5 Aug 95, unlawfully strike ----- in the face and on the body with his fists and feet. Plea: Guilty. Finding: Guilty.

CHARGE II: Article 134. Plea: Guilty. Finding: Guilty.

Specification 1: Did on divers occasions, in Wichita, Kansas, from on or about 1 May 95 to on or about 30 Jun 95, wrongfully have sexual intercourse with -----, a woman not his wife. Plea: Guilty. Finding: Guilty.

Specification 2: Did, in Wichita, Kansas, on or about 8 Aug 95, wrongfully communicate to ----- a threat to injure ----- and -----, by shooting them. Plea: Withdrawn after arraignment).

Sentence adjudged on 19 Oct 95: Reduction to Amn, confinement for 75 days, and forfeiture of \$350.00 pay per month four 4 months.

g. Record of SV: 3 Sep 93 - 2 May 95 McConnell AFB 4 (Intial)

(Discharged from McConnell AFB)

h. Awards & Decs: AFTR, NDSM, JMUA.

i. Stmt of Sv: TMS: (2) Yrs (3) Months (27) Days  
TAMS: (2) Yrs (2) Months (19) Days

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 7 Oct 02.  
(Change Discharge to Honorable and Change RE Code)

Issue 1: My Undesirable Discharge was inequitable because it was based on one isolated incident in 26 months of service with no other adverse action.

Issue 2: My Re-entry code has to upgraded (sic) before I can enter the Kansas Air National Guard.

**ATCH**

1. Letter to the Air Force Discharge Review Board, 23 Sep 02.

22JAN02/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 22D AIR REFUELING WING (AMC)  
McCONNELL AIR FORCE BASE, KANSAS

9 Jan 96

MEMORANDUM FOR [REDACTED]

FROM: 22 SUPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for the commission of serious offenses. Authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52. Authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52. If my recommendation is approved, your service will be characterized as honorable or general (under honorable conditions). I am recommending your service be characterized as general (under honorable conditions).

2. My reasons for this action are:

a. You did, in Wichita, Kansas, on or about 5 August 1995, unlawfully strike [REDACTED] in the face and on the body with your fists and feet, as evidenced by DD Form 458 (Charge Sheet), dated 8 Sep 95; AF Form 1359 (Report of Result of Trial), dated 19 Oct 95; and Special Court-Martial Order No. 4, dated 22 Dec 95.

b. You did, on divers occasions, in Wichita, Kansas, from on or about 1 May 1995 to on or about 30 June 1995, wrongfully have sexual intercourse with [REDACTED] a woman not your wife, as evidenced by DD Form 458, dated 18 Sep 95; AF Form 1359, dated 19 Oct 95; and Special Court-Martial Order No. 4, dated 22 Dec 95.

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. You are ineligible for reenlistment in the Air Force if your discharge is approved.

3. You have the right to consult military counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Capt [REDACTED] Area Defense Counsel (ADC), on 9 Jan 96 at 1400 in Bldg 750. ADC can be reached at 4375.

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 12 Jan at 1300 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. You have been scheduled for two mandatory medical examinations. You are to report to the 22d Medical Group Physical Exams Section on 11 Jan 96 at 0730 and Flight Medicine on 11 Jan 96 at 0930. Take your records with you to both appointments. If you wear glasses take them with you to both appointments. If you wear contacts have them out 12 hours prior to both appointments.

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

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

  
Major, USAF  
Commander

Attachments:

1. DD Form 458, 18 Dec 95
2. AF Form 1359, 19 Oct 95
3. SPCMO No. 4, 22 Dec 95
4. Airman's Receipt of Notification Ltr