

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

MEMBERS SITTING	VOICE OF THE BOARD				DENY
	HON	GEN	UOTHC	OTHER	
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A94.53, A92.21, A92.37	INDEX NUMBER A67.30	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
HEARING DATE 03-05-16	CASE NUMBER FD2002-0518	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
[REDACTED]	[REDACTED]

ENDORSEMENT		DATE: 03-05-16
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

FD2002-0518

**GENERAL:** The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for his discharge, and to change his reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are denied.

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

Issues. Applicant was discharged for commission of a serious offense. Member received two Articles 15 and a Record of Individual Counseling. His misconduct included failure to stop and render proper respect to the flag during retreat even after given an order to do so, wrongfully having sexual intercourse with a married woman not his wife, being drunk and disorderly, using provoking language toward a Security Forces member in the execution of his duties, spitting on and kicking that Security Forces member, and kicking another noncommissioned officer Security Forces member in the stomach during this same incident. The records review disclosed member entered the Air Force with a morals waiver due to having five speeding and careless driving tickets. As a result of his alcohol-related incident wherein he assaulted two Security Forces members in the execution of their duties, he was sent to the 8-day Substance Abuse, Rehabilitation, and Treatment program and diagnosed an alcohol abuser. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf stating that a general discharge was acceptable. The Board noted member was age 22 when his misconduct occurred, essentially the same age as other airmen who complete their enlistments without disciplinary infractions, and there was no evidence he did not know right from wrong. His misconduct was disruptive, and its seriousness outweighed his otherwise satisfactory service. The board did not find sufficient mitigation to warrant an upgrade, and no inequity or impropriety was found in this discharge in the course of the records review. Therefore, the Board found the record supports the characterization of service received.

The applicant noted he is now serving in the Army National Guard and cited his desire to return to service in the Air Force. While the Board commends applicant on this desire, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety that warrants an upgrade.

**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

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 20 Feb 97 UP AFI 36-3208, para 5.52 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge, Change in RE Code, and Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 4 Jul 74. Enlmt Age: 20 1/12. Disch Age: 22 7/12. Educ: H DIPL. AFQT: N/A. A-36, E-86, G-76, M-89. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 11 Jan 95.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 24 Aug 94 for 4 yrs. Svd: 2 Yrs 5 Mos 28 Das, all AMS.

b. Grade Status: AMN - 27 Aug 96 (Article 15, 27 Aug 96)

c. Time Lost: None.

d. Art 15's: (1) 15 Jan 97, Spangdahlem AB, Germany - Article 117. You did, at or near Bitburg, Germany, on or about 28 Nov 96, wrongfully use provoking words, to wit: "Fuck you, I'm going to whip your ass" and "come on hit me," or words to that effect towards A1C -----, U.S. Air Force Security Policeman. Article 128. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully kick SSgt ----- in or near his stomach with your foot. Article 128. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully kick A1C ----- in his right arm with your feet. Article 128. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully spit in the face of A1C ----- . Article 134. You were, at or near Bitburg, Germany, on or about 28 Nov 96, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces. Suspended reduction to AB, and a reprimand. (No appeal) (No mitigation)

(2) 27 Aug 96, Spangdahlem AB, Germany - Article 134. You, did, between on or about 31 May 96 and 1 Jun 96, wrongfully have sexual intercourse with -----, a married woman not your wife. Reduction to Amn, and 45 days extra duty. (No appeal) (No mitigation)

- e. Additional: RIC, 13 DEC 96 - Failure to stopping and rendering proper respect to the Flag during Retreat
- f. CM: None.
- g. Record of SV: 24 Aug 94 - 15 Apr 96 Spangdahlem AB 4 (HAF Dir)  
(Discharged from Dover AFB)
- h. Awards & Decs: AFTR, NDSM, AFOUA, AFOSLTR.
- i. Stmt of Sv: TMS: (2) Yrs (5) Mos (28) Das  
TAMS: (2) Yrs (5) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Nov 02.  
(Change Discharge to Honorable, Change RE Code, and Reason and Authority for Discharge)

Issue 1: I am trying to get my discharge changed from, General Under Honorable Conditions, to a Honorable Discharge, for the main reason that I may reenlist in the United States Air Force. I am currently serving in the PA Army National Guard. I've been enlisted in the PA ARNG for 3 yrs.

**ATCH**

1. Det 1, HHC/2/112<sup>th</sup> INF letter, 18 Oct 02.

26FEB02/ia



DEPARTMENT OF THE AIR FORCE  
UNITED STATES AIR FORCES IN EUROPE

FD 2002-0518

MEMORANDUM FOR [REDACTED]  
52d Equipment Maintenance Squadron

29 JAN 97

FROM: 52 EMS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for the commission of a serious offense. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.2. 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. You did, at or near Bitburg, Germany, on or about 28 Nov 96, wrongfully use provoking words, to wit: "Fuck you, I'm going to whip your ass" and "come on hit me" or words to that effect towards Airman First Class [REDACTED] U.S. Air Force Security Policeman.

b. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully kick Staff Sergeant [REDACTED] in or near his stomach with your foot.

c. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully kick Airman First Class [REDACTED] in his right arm with your feet.

d. You did, at or near Bitburg, Germany, on or about 28 Nov 96, unlawfully spit in the face of Airman First Class [REDACTED]

e. You were, at or near Bitburg, Germany, on or about 28 Nov 96, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces.

- For these actions you received an Article 15 dated 16 Jan 97 (Atch 1) which was placed in your existing UIF on 16 Jan 97. Your punishment consisted of reduction to the grade of airman basic and a reprimand. Reduction to the grade of airman basic was suspended until 14 Mar 97, after which time it will be remitted without further action unless sooner vacated.

3. In addition, the following information will be considered in determining whether or not you should be discharged, and if so, how your service will be characterized:

a. You did, at or near Spangdahlem Air Base, Germany, between on or about 31 May 96 and 1 Jun 96, wrongfully have sexual intercourse with [REDACTED], a married woman not your wife. For this action you received an Article 15 dated 10 Sep 96 (Atch 2) which was filed

in a UIF established 10 Sep 96. Your punishment consisted of reduction to the grade of airman with a new date of rank of 27 Aug 96 and 45 days extra duty.

b. On 12 Dec 96 you failed to stop and render respect to the flag when retreat started. On 12 Dec 96, you, having received a lawful order from [redacted] to go back outside, failed to obey the same. For these actions you received a letter of counseling dated 13 Dec 96 (Atch 3).

4. 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.

5. 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 Captain [redacted], Area Defense Counsel, Bldg 151, Spangdahlem AB, Germany, on 30 Jan 97 at 1530 hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 3 Feb 97, unless you request in writing and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You have been scheduled for a medical examination. You must report to the 52d Medical Group Physical Exams Element with your medical records at 0745 hours on 30 Jan 97.

9. 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 your orderly room.

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

[Redacted Signature]

Maj, USAF  
Commander

Attachments:

- 1. AF Form 3070, 16 Jan 97
- 2. AF Form 3070, 10 Sep 96
- 3. AF Form 174, 13 Dec 96