

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██	GRADE SSGT	AFSN/SSAN ██
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
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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
					X

ISSUES A93.09	INDEX NUMBER A61.00	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
		2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
HEARING DATE 30APR 03	CASE NUMBER FD2003-0013	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: 30APR 03
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD03-0013

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 his discharge. He states that he was going through a very difficult divorce and that after his convictions, he attended a 6-month long domestic violence prevention class. The record indicates that the applicant was discharged with a General Discharge for being convicted of a domestic violence assault and for criminal mischief and harassment. The DRB took note of the applicant's duty performance as documented by his performance reports, and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case.

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 SSGT) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 8 Aug 00 UP AFI 36-3208, para 5.51 (Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Mar 75. Enlmt Age: 18 6/12. Disch Age: 25 4/12. Educ: HS DIPL. AFQT: N/A. A-87, E-63, G-52, M-74. PAFSC: 1T151 - Aircrew Life Support Journeyman. DAS: 12 Aug 99.

b. Prior Sv: (1) AFRes 24 Sep 93 - 6 Feb 94 (4 months 14 days) (Inactive).

(2) Enlisted as A1C 7 Feb 94 for 4 yrs. Extended 4 Nov 95 for 11 months. Svd: 3 yrs 8 months 9 days, all AMS. SRA - 7 Jun 96. EPRs: 5,5,5.

ART 15: 22 Sep 95, Fairchild AFB, WA - Article 128. You, did, on or about 8 Sep 95, assault A1C ----- by shoving her and striking her in the face several times. Suspended reduction to Airman (remitted on 30 Oct 95), and forfeiture of \$75.00 pay per month for 2 months (remainder of forfeiture remitted on 30 Oct 95). (Appeal/Withdrawn) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SRA 17 Oct 97 for 4 yrs. Extended 11 Jan 99 for 11 months. Svd: 2 Yrs 9 Mo 22 Das, of which AMS is 2 yrs 9 months 16 days (excludes 6 days lost time).

b. Grade Status: SSGT - 1 Jul 99

c. Time Lost: 12 May 00 thru 17 May 00 (6 days).

d. Art 15's: None.

e. Additional: LOR, 24 MAY 00 - Civilian conviction for criminal mischief, third degree, and harassment.
LOR, 07 OCT 99 - Domestic violence assault.

f. CM: None.

g. Record of SV: 07 Oct 97 - 06 Oct 98 Kadena AB 5 (Annual)
07 Oct 98 - 10 Jun 99 Kadena AB 5 (CRO)

(Discharged from Elmendorf AFB)

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

MEMORANDUM FOR 517 AS/DOTL [REDACTED] 20 June 2000

FROM: 517 AS/CC

SUBJECT: Notification Memorandum--Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct based on civilian convictions. The authority for this action is AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.51. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached.

2. My reasons for this action are:

a. On or about 4 May 00, you were convicted of harassment and criminal mischief in the 3rd degree in the District Court for the State of Alaska at Anchorage. This is evidenced by a State of Alaska judgment, dated 4 May 00. For this offense you received a Letter of Reprimand (LOR), dated 24 May 00, and an Unfavorable Information File was established.

b. On or about 15 Oct 99, you were convicted of domestic violence assault and malicious destruction of property in the District Court for the State of Alaska at Anchorage. This is evidenced by a State of Alaska judgment, dated 15 Oct 99. For this offense you received an LOR, dated 7 Oct 99.

3. This action could result in your separation with an honorable, a general, or an under other than honorable conditions discharge. I am recommending you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to:

a. Receive written notice of the reasons for discharge, including the circumstances upon which each reason is based, and the least favorable type of separation authorized.

b. Receive copies of the documents to be forwarded to the separation authority in support of the recommendation for discharge.

c. Consult legal counsel. Military legal counsel will be detailed to assist you.

d. Request a hearing before an administrative discharge board.

e. Present written statements in addition to, or in lieu of, the board proceedings.

f. Be represented before the board by Area Defense Counsel assigned to the installation or by military counsel of your choice, if the counsel of choice is reasonably available, but not by both. The availability of counsel of choice will be determined according to AFI 51-201, Military Justice Guide.

g. Be represented before the board by civilian counsel. Civilian counsel may be employed only at your own expense.

h. Waive any of the above rights. Your failure to respond, after being given a reasonable opportunity to consult counsel, constitutes a waiver of all rights listed above except the first two. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for medical examinations. You must report to the 3rd Aerospace Medicine Squadron, Bldg 5595 at 0700 on 22 Jun 2000 with your medical records. You are to refrain from alcohol for 72 hours, and refrain from the use of tobacco products for 6 hours, prior to examination. Bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for these examinations.

6. Military legal counsel has been obtained to assist you. An appointment has been scheduled for you to consult [REDACTED] at Bldg 10480, Rm 330 on 20 Jun 2000 at 11:00. Instead of the appointed counsel, you may have another attorney represent you, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply in writing, within 7 duty days, specifying the rights, if any, you choose to exercise. This statement must be signed in the presence of your counsel who will also sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at 0800 on 29 Jun 2000. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to Bldg 8517 (People Center), Rm 247 at 0830 on 28 June 2000.

9. 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 at your Squadron Orderly Room.

10. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

11. Execute the attached Receipt of Notification Memorandum and return it to me immediately.

Attachments:

1. AF Form 1058, 30 May 00
2. LOR, 24 May 00
3. Judgment, 4 May 00
4. Judgment, 15 Oct 00
5. LOR, 7 Oct 99