

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 A1C	AFSN/SSAN <div style="background-color: black; width: 80px; height: 15px;"></div>			
TYPE	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
ISSUES A93.09, A93.11, A94.05		INDEX NUMBER A67.10				
HEARING DATE 22 MAY 03		CASE NUMBER FD2003-0047				
		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 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: 22 MAY 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 RD FLOOR ANDREWS AFB, MD 20762-7002				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD03-0047

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 which would justify a change of discharge. The Board did find an impropriety due to the fact that the individual had over 6 years of service and was supposed to have an opportunity for an Administrative Board. However, the Board opined that this was a harmless error because by his own actions, the respondent has indicated he no longer desires to be in the Air Force. The member would have still received a General Discharge, or worse, an UOTHC.

ISSUE: Applicant states that there were not enough incidents to warrant a General Discharge. He states that his disciplinary record does not fairly describe his whole tour. He mentions awards that he received and that he received a reenlistment bonus. He also mentions that he has been a good citizen since his discharge and has a full time job and does volunteer work. He believes his offenses were only isolated offenses and his ability to serve was impaired because of marital problems and financial problems due to supporting 2 households. The record indicates the applicant received two Article 15s for being disrespectful in language and deportment toward a NCO twice. He received a Vacation action under the UCMJ for failure to go, and he received two Letters of Reprimand for financial irresponsibility, making a false official statement and failed to comply with a direct order. The DRB took note of 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. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity in his discharge was found in the course of the hearing. 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 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

[REDACTED]
(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 18 Dec 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 10 Feb 78. Enlmt Age: 17 8/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-48, E-74, G-64, M-77. PAFSC: 3C051 - Computer Systems Operations. DAS: 1 Aug 00.

b. Prior Sv: (1) AFRes 23 Oct 95 - 23 Jul 96 (9 Months 1 Day) (Inactive).

(2) Enld as AB 24 Jul 96 for 4 yrs. Svd: 3 Yrs 7 Mos 14 Das, all AMS. AMN - 24 Jan 97. AIC - 24 Nov 97. SRA - 24 Jul 99. EPRs: 4,3.

Article 15's: (1) 20 Jul 98, Hickam AFB, HI - Article 91. You, did, on or about 25 Jun 98, treat with disrespectful language and deportment, MSgt -----, a NCO, then known by you to be a NCO, who was then in the execution of his office, by saying to him, "I will as soon as they get in the fucking van" or words to that effect, ignoring his instructions to move your bag off the seat of a passenger van transporting security police augmentees, and failing to make room for additional passengers on the van when told by MSgt ----- to do so. Fourteen days extra duty, and a reprimand. (No appeal) (No mitigation).

3. **SERVICE UNDER REVIEW:**

a. Reenld as SRA 10 Mar 00 for 6 yrs. Svd: 1 Yr 9 Mos 9 Das, all AMS.

b. Grade Status: A1C - 20 Jun 01 (Vacation of Article 15, 10 Aug 01)

c. Time Lost: None.

d. Art 15's: (1) 10 Aug 01, Vacation, Pope AFB, NC - Article 86. You, did, on or about 16 Jul 01, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to A1C. (No appeal) (No mitigation)

(2) 20 Jun 01, Pope AFB, NC - Article 91. You, did, on or about 25 May 01, was disrespectful in behavior and conduct toward SSgt -----, a NCO, then known by you to be a NCO, who was then in the execution of his office,

by walking away from SSgt ----- and then returning to invade his personal space. Suspended reduction to AlC, and 21 days extra duty. (No appeal) (No mitigation).

- e. Additional: LOR, 16 NOV 01 - Failure to comply with a direct order.
LOR, 17 APR 01 - Financial irresponsibility and making several false official statements.

f. CM: None.

- g. Record of SV: 24 Mar 99 - 23 Mar 00 Hickam AFB 4 (Annual)
24 Mar 00 - 23 Mar 01 Pope AFB 3 (Annual REF)

(Discharged from Pope AFB)

h. Awards & Decs: AFLSA, AFTR, AFEM, AFOUA W/1 DEV.

- i. Stmt of Sv: TMS: (6) Yrs (1) Mos (26) Das
TAMS: (5) Yrs (4) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Dec 02.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF

ATCH

1. Applicant's Issues.
2. Letters of Reference.
3. Enlisted Performance Reports.
4. Police Record Check.
5. DD Form 214.

26Mar03/cr

ARGUMENTS/CONTENTIONS

- [REDACTED]
- [REDACTED]
1. There were not enough incidents to warrant my General Discharge, and so warrant an upgrade to honorable. In my first enlistment all my EPR's stated that I was ready for promotion. In my first enlistment I had no LOC's, or LOR's and only one Article 15 for arguing which is a minor offense. My Disciplinary record does not fairly describe my whole tour, which was pretty good, and so warrants an upgrade to honorable.
 2. In my enlisted career I received 2 awards one with a device, 1 ribbon, 1 medal, and was personally presented a coin from [REDACTED] for going above and beyond my normal job, and so warrants an upgrade to honorable.
 3. After my first enlistment my request for reenlistment for six years was approved. With the position and experience I had created a real need in the Airforce so I was paid a reenlistment bonus, and so warrants an upgrade to honorable.
 4. After my first term I received an honorable discharge before reenlisting with each of my EPR's, (see attachment) stating I was ready for promotion. I do not believe that the incidents that happened in my last 1 year and 7 months should cloud my record for the first term, so warrants an upgrade to honorable.
 5. I have been a good citizen since discharge. I gotten a job in a window factory, (see letter of recommendation from Simonton Windows). I have also done volunteer work for Church activities (see letter of recommendation from [REDACTED]). I have a clean police record. I also believe I have done as much as I can for the community to make it a better place, so warrants an upgrade to honorable.
 6. My NJP's/article 15's and LOR's indicate only isolated or minor offenses, and so warrants an upgrade to honorable.
 7. My ability to serve was impaired because of marital problems. At the point of discharge I had been working almost 2 years trying to get my wife [REDACTED] into this country from Turkey. We were separated all that time by my being assigned to Pope AFB NC and she not being able to get into the USA. The Visa had been denied 2 times and the Embassy would not work with my congressman or my paralegal. This caused a conflict in my family so impaired my ability to serve and so warrants an upgrade to honorable.
 8. Financial problems with supporting 2 households, legal and medical fees for my spouse impaired my ability to serve. With this I was unable to fully devote my abilities in serving my country because of the additional stress in my life and so warrants an upgrade to honorable.
 9. I tried to apply for a compassionate reassignment but was unfairly told I did not have enough seniority and told to forget it. I was told that I had orders to PCS from Hickam AFB HI to Pope AFB NC the first time I asked for a Compassionate reassignment. I was told that I had to be on station for at least 2 years before I could apply for a reassignment the second time I asked. Each time no paperwork was started and I was told to forget it and so warrants an upgrade to honorable.

10. I tried to apply for a hardship discharge but was told I had just reenlisted and was unfairly told that I could not get it. With my first shirt refusing to start paperwork I believe that also warrants an upgrade to honorable.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

6 Dec 01

MEMORANDUM FOR [REDACTED]

FROM: 43 CS/CC
374 Maynard Street
Pope AFB, NC 28308

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. You understand that approval of this recommendation for your discharge could result in you receiving an under other than honorable conditions discharge, if the convening authority determines such characterization is warranted and directs initiation of a discharge board. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 29 Oct 01, you did, at or near Pope AFB NC, having received a lawful order from [REDACTED] a noncommissioned officer, then known by you to be a noncommissioned officer, to not alter the configuration on a government computer, an order which it was your duty to obey, willfully disobeyed the same as documented by a Letter of Reprimand, dated 16 Nov 01.

b. On or about 16 Jul 01, you did, at or near Pope AFB NC, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 514 as documented by AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 10 Aug 01.

c. On or about 25 May 01, you were, at or near Pope AFB NC, disrespectful in behavior and conduct toward [REDACTED] a non-commissioned officer, then known by you to be a non-commissioned officer, who was then in the execution of his office, by walking away from [REDACTED] and then returning to invade his personal space as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 20 Jun 01.

d. On or about 17 Apr 01, investigation revealed that you failed to comply with the requirement to pay several of your debts during the months of January and February 2001 as documented by a Letter of Reprimand, dated 17 Apr 01.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The 43d Airlift Wing Commander, who exercises Special Court Martial (SPCM) jurisdiction or a higher authority, will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have a right to consult counsel. Military legal counsel has been obtained to assist you. Contact [REDACTED] (extension 4-2362) at the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult [REDACTED] the Area Defense Counsel. You may consult civilian counsel at your own expense. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me by 11 Dec 01 at 1430 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to **submit statements in your own behalf in three days**, your failure will constitute a waiver of your right to do so.

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 at the orderly room.

[REDACTED] USAF
Commander

Attachments:

1. Letter of Reprimand, 16 Nov 01
2. AF Form 366, dated 10 Aug 01
3. AF Form 3070, dated 20 Jun 01
4. Letter of Reprimand, dated 17 Apr 01