

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE GEN	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
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A92.01, A92.03, A92.11, A94.11, A01.39, A01.13, A01.25	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD		
HEARING DATE 10 JUN 03	CASE NUMBER FD2003-00111	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 [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 10 JUN 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

GENERAL: The applicant appeals for upgrade of discharge to honorable.

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 is 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.

Applicant was discharged for minor disciplinary infractions. He had an Article 15 for signing a false official statement, making a false statement to his commander, willfully damaging government property, assaulting another airman, and harassing two other airmen while being disorderly. At the time of the discharge, member consulted counsel and submitted statements in his own behalf requesting retention.

Issues 1 – 3. Applicant infers his discharge was inequitable in view of his excellent duty history reflected in his performance reports, awards and decorations, and promotion selection. The records review disclosed that all of the misconduct referred to in member's Article 15 occurred during two alcohol-related incidents. These followed two previous alcohol-related incidents, as recounted in one of the character statements applicant submitted at the time of discharge. While it is true that member had a satisfactory duty history apart from his alcohol-related misconduct, and the record reflects he was a cooperative, successful participant in the substance abuse rehabilitation program, his commander considered these factors but determined member's misconduct was so grave that it did not warrant retention. The DRB agreed that the seriousness of member's misconduct offset the positive aspects of his duty performance. Member was responsible for his actions and was held accountable for them because his misconduct was disruptive to the unit. The Board concluded the discharge was appropriate for the reasons that were its basis.

Issues 4 - 7. Applicant infers his discharge was inappropriate due to inadequate representation by legal counsel, false accusations made against him, and his belief he was made an example of by his command. Applicant did not provide sufficient evidence to substantiate these contentions and the Board found these issues without merit.

Issue 8. Applicant contends he had no opportunity for rehabilitation following his Article 15, and that the discharge served to punish him twice for the same offenses. Applicant's contentions are unfounded. The discharge regulations clearly gave his chain of command authority to recommend discharging him based on unsuitability for further military service as a result of his serious misconduct. Facts and circumstances are different in each action and must be judged on a case-by-case basis. In doing so, a commander must consider the seriousness of the misconduct and how a member's retention might affect good order, discipline, and morale, not just the member's rehabilitative potential. Administrative separation is a separate and distinct action apart from the Article 15; it is an action that severs the military status of an individual and characterizes his service, but is not the same as the punishment rendered by the non-judicial proceeding for his misconduct. Commission of serious repeat offenses clearly established applicant's unsuitability for further Air Force 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.

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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 19 Feb 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 24 Aug 79. Enlmt Age: 19 1/128. Disch Age: 23 5/12. Educ: HS DIPL. AFQT: N/A. A-74, E-88, G-88, M-79. PAFSC: 1C151 - Air Traffic Control. DAS: 4 Apr 02.

b. Prior Sv: (1) AFRes 28 Sep 98 - 23 Feb 99 (4 Months 27 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 24 Feb 99 for 6 yrs. Svd: 3 Yrs 11 Mos 27 Das, all AMS.

b. Grade Status: AMN - 12 Dec 02 (Article 15, 12 Dec 02)
SRA - 16 Aug 01
AIC - 16 Apr 99

c. Time Lost: None.

d. Art 15's: (1) 11 Dec 02, Osan AB, Korea - Article 107. You, did, on or about 10 Aug 02, with intent to deceive, sign an official statement, to wit: by answering "no" to the question "did you break the window in the above door in Building 1351", which statement was totally false, and was then known by you to be so false. You, did, on or about 2 Oct 02, with intent to deceive, make to [REDACTED] official statements, to wit: "On my way back to the pavilion my hands were full as I proceeded to open both the hallway and dorm entrance doors with my foot. Unfortunately the lower portion of glass on the right hand entrance door broke as I shoved it open," or words to that effect, which statements were totally false, and were then known by you to be so false. Article 108. You, did, on or about 10 Aug 02, without proper authority, willfully destroy by cracking a window in the door in Building 1351, military property of the United States the amount of said damage being in the sum of \$209.00. Article 128. You, did, on or about 12 October 2002, unlawfully strike [REDACTED] in the face with your fists. Article 134. You, were, on or about 12 Oct 02, disorderly, by harrassing and acting aggressively towards [REDACTED] and [REDACTED]

[REDACTED] at the Mustang Club. Reduction to AMN, and 60 days restriction. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 24 Feb 99 - 15 Oct 00 Tyndall AFB 5 (Dir by HAF)
 16 Oct 00 - 15 Oct 01 Tyndall AFB 5 (Annual)
 16 Oct 01 - 21 Mar 02 Tyndall AFB 5 (CRO)

(Discharged from MacDill AFB)

h. Awards & Decs: AFTR, BATCB.

i. Stmt of Sv: TMS: (4) Yrs (4) Mos (23) Das
 TAMS: (3) Yrs (11) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Mar 03.
 (Change Discharge to Honorable)

Issue 1: My conduct and efficiency ratings were top-notch throughout my Air Force career. Besides my Article 15 during this isolated situation.

Issue 2: My record of promotion shows that I was a dedicated, hard working and very focused airman. Making E-5 in less than four years.

Issue 3: I received many awards and decorations including an achievement medal for my flawless efforts during an aircraft emergency, Professional Airman of the Year, Airman of the Quarter, Air Traffic Controller of the quarter as well as numerous LOA's for my dedicated and unselfish hard work.

Issue 4: False statements written against me were never investigated further.

Issue 5: My truthful version of the situation was discarded which caused the unwarranted changes to be added to my Article 15. I volunteered to take a polygraph test to prove myself and show my commander that the two statements against me were indeed false. Once again this issue was not pursued.

Issue 6: I feel that I was made an example out of because of the very high amount of alcohol related incidents at Osan AB between Oct 02 - Dec 02. I believe that I would have been given a second change to continue my Air Force career if my situation took place under a different command at a different base.

Issue 7: My representation from the Area Defense Council (sic) was sub-par due to under manning and the high number of incidents which occurred (sic) on Osan AB. Because of my 60 day restriction to base and being stationed in South

Korea I was not able to seek adequate legal representation.

Issue 8: Charges on my discharge were the exact same as those I was punished for on my Article 15. I was never given a second chance to rehabilitate my career. I feel I was punished twice for the exact same things and was never able to prove my worth as a valuable airman.

ATCH

1. Enlisted Performance Reports.
2. Response to Discharge.
3. Character References.

17Apr03/cr



DEPARTMENT OF THE AIR FORCE

51st Operations Support Squadron

UNIT 2163

APO AP 96278-2163

RD2003-00111

28 JAN 2003

MEMORANDUM FOR [REDACTED]

FROM: 51 OSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force based upon Minor Disciplinary Infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Para 5.49. If my recommendation is approved, then your service will be characterized as Honorable or General (under Honorable Conditions). I am recommending that you receive a General discharge.

2. My reasons for this discharge action are as follows:

On or about 10 August 2002, at or near Osan Air Base, Republic of Korea, you willfully destroyed military property by cracking a window in a door in Building 1351. On or about 10 August 2002, you signed a false official statement by answering "No," to the question "Did you break the window in the above door in Building 1351," knowing that it was false and that you did break the window. On or about 2 October 2002, you made a false official statement to me regarding shoving a door with your foot resulting in the glass breaking in Building 1351, knowing that it was false. On or about 12 October 2002, you unlawfully struck [REDACTED] in the face with your fists. On or about 12 October 2002, you harassed and acted aggressively towards [REDACTED] and [REDACTED] at the Mustang Club. For these incidences of misconduct you received an Article 15, dated 11 December 2002. (Atch 1)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial 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. Any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel is available to assist you. You may consult the Area Defense Counsel (Bldg 937, Rm 101) at 784-6774. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements that you want the separation authority to consider must reach me by 1200 hours on 31 JAN 03 (three workdays) unless you request and receive an extension for good cause. I will forward any such statements to the separation authority.

6. If you fail to consult or submit statements in your own behalf, then your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a medical examination. You must report to the hospital at 0900 hours on 31 JAN 03.
8. The Privacy Act of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available at the Orderly Room.
9. Execute the attached acknowledgment and return it to me immediately.


Lt Col, USAF
Commander

Attachments:

1. Article 15, dated 11 Dec 02
2. Airman's Acknowledgment