

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE SSgt	AFSN/SSAN ██████████
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TYPE	<input checked="" type="checkbox"/> PERSONAL APPEARANCE	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	<input checked="" type="checkbox"/>	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
██████████		X			
██████████		X			
██████████		X			
██████████	X				
██████████		X			

ISSUES A94.08	INDEX NUMBER A71.00	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	
HEARING DATE 28 Oct 2003	CASE NUMBER FD-2003-00164		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
			TAPE RECORDING OF PERSONAL APPEARANCE	

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C.

Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR

SIGNATURE OF RECORDER ██████████	SIGNATURE OF BOARD PRESIDENT ██████████
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INDORSEMENT DATE: 10/29/2003

TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00164

GENERAL: The applicant appeals for upgrade of discharge to either an honorable or a general.

The applicant appeared before the Discharge Review Board (DRB) without counsel.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board finds that neither the evidence of record or that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's Under Other Than Honorable Conditions (UOTHC) was too harsh. After reviewing the respondent's record, the Board concluded the applicant's service should be characterized as general (vice honorable).

ISSUE: The applicant contends that his UOTHC discharge is too harsh because others who committed the same or similar offenses had their service characterized as general. The applicant submitted his resignation while he was pending court-martial action for cheating on an Air Force promotion test. Evidence to support the cheating charge included the applicant's statement in which he admitted to engaging in prohibited group study with another Air Force member. The member with whom he cheated, SSgt [REDACTED], also provided a statement in which he admitted cheating on the promotion test with the applicant. SSgt [REDACTED] took the promotion test before the applicant. At the Board, the applicant admitted asking SSgt [REDACTED] if he learned anything on the test which could help him. Rather than face trial for this offense, the applicant requested to be separated administratively with a general discharge. The convening authority approved his request but directed he be separated with a UOTHC discharge. In the legal review which accompanied the applicant's resignation, the convening authority's Staff Judge Advocate (SJA) recommended the resignation be accepted. The SJA noted a case involving more egregious acts of cheating resulted in a punishment which did not even include a reduction in rank. The SJA also observed SSgt [REDACTED] punishment for this cheating offense was limited to an Article 15 followed by an administrative separation with a general discharge. The SJA stated, "SSgt [REDACTED] requested Chapter 4 discharge should be granted for consistency of treatment between SSgt [REDACTED] and his accomplice Mr. [REDACTED]." In reviewing the applicant's record, the Board could not find a compelling reason which would justify imposing a more severe administrative separation than his accomplice. The Board observed that until he cheated on his promotion test, the applicant had a commendable service history. Although his decision to cheat makes an honorable discharge inappropriate, it was not so egregious as to warrant separation with a UOTHC.

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. However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an General discharge. The applicant's characterization should be changed to General (vice UOTHC) under the provisions of Title 10, USC 1553.

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 UOTHC Disch fr USAF 21 Jul 00 UP AFI 36-3208, para 4.12 (Discharge in Lieu of Trial by Court Martial). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 5 Oct 72. Enlmt Age: 19 5/12. Disch Age: 27 9/12. Educ: HS DIPL. AFQT: N/A. A-74, E-65, G-78, M-62. PAFSC: 3P051 - Security Forces Journeyman. DAS: 23 Oct 98.

b. Prior Sv: (1) AFRes 24 Mar 92 - 20 May 92 (1 Month 27 Days) (Inactive).

(2) Enld as AMN 21 May 92 for 4 yrs. Svd: 3 Yrs 0 Mos 2 Das, all AMS. A1C - 21 Mar 93. SRA - 21 Dec 94. EPRs: 4,5.

3. SERVICE UNDER REVIEW:

a. Reenld as SRA 23 May 95 for 5 yrs. Ext: 18 May 00 for 3 months. Svd: 5 Yrs 2 Mo 0 Das, all AMS.

b. Grade Status: SSGT - 1 Mar 99

c. Time Lost: None.

d. Art 15's: None.

e. Additional: None.

f. CM: None.

g. Record of SV:

21 Jan 95 - 20 Jan 96	Bolling AFB	5	(Annual)
21 Jan 96 - 28 Jan 97	Bolling AFB	5	(Annual)
29 Jan 97 - 28 Jan 98	Bolling AFB	5	(Annual)
29 Jan 98 - 01 Sep 98	Incirlik AB	5	(CRO)
02 Sep 98 - 01 Sep 99	Edwards AFB	2	(Annual) REF

(Discharged from Edwards AFB)

h. Awards & Decs: AFAM W/2 DEV, AFLSA W/1 DEV, AFTR, AFOSTR, AFOLTR, NDSM, NCOPMER, AFEM, JMUA, AFOEA, AFGCM W/1 DEV, FPBOB.

i. Stmt of Sv: TMS: (8) Yrs (3) Mos (28) Das
TAMS: (8) Yrs (2) Mos (1) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 Apr 03.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one isolated incident in 96 months of service with no other adverse action. (Attachment A)

Issue 2: My discharge type was improper because my alledged group study partner received a general discharge, while another member of my unit didn't get discharged at all for same charge. (Attachment A)

ATCH

1. Applicant's Letter.
2. Child Custody Documents.
3. Enlisted Performance Reports.
4. Medical Evaluation.
5. Congressional Inquiry.
6. Bankruptcy Documents.
7. DD Form 214.

14 May 03/cr