

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE SRA	AFSN/SSAN ██████████
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TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
	X				
	X+				
	X+				
	X+				
	X				

ISSUES	A94.06 A93.34 A94.12 A93.12	INDEX NUMBER	A49.00	EXHIBITS SUBMITTED TO THE BOARD	
HEARING DATE	07 Oct 2003	CASE NUMBER	FD-2003-00185	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

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.

+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

INDORSEMENT		DATE: 11/7/2003
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	

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00185

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and the hearing was held on October 7, 2003, at Andrews AFB MD. The applicant offered no additional evidence at the hearing.

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

FINDINGS: The Board grants in part and denies in part the requested relief. The character of the discharge will be upgraded and the reason and authority changed, but the reenlistment code will remain the same.

The Board finds that neither the evidence of record nor 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 discharge inequitable.

ISSUE:

Although the applicant submitted issues for the DRB's consideration, other issues that became apparent during the course of the hearing provided the primary justification for granting the applicant's request.

Issue 1: Applicant explicitly contends that his post-service activities should be taken into consideration on the question of the propriety of his discharge. The DRB was pleased to see the applicant was doing well, that he has a good job, and that he has been able to gain control of his financial situation. This information does not provide a justification for changing the discharge characterization, but it gave the DRB a more informed perspective from which to evaluate the applicant's conduct while in the service.

Issue 2: Applicant explicitly contends that his ability to serve was impaired by marital and financial problems. While he was clearly experiencing problems in this regard, he was not faced with hurdles more daunting than those faced by any other young, newly married airman. The problems in and of themselves would not provide a basis for upgrade. It is, however, the command/supervisory response to the applicant's marital/financial problems that provide the basis for the upgrade. (See Issues 3 & 4, below).

Issue 3: Applicant impliedly contends that his discharge was based on a personality conflict, arbitrary and capricious command/supervisory action, and command/supervisory mismanagement. The DRB agrees. The records indicated the applicant received five Letters of Reprimand (LOR) and three Letters of Counseling (LOC). He did not receive any Article 15s. The evidence indicated that the applicant's supervisor and others in the command structure utterly failed to correctly administer the disciplinary actions. The DRB concluded that some of the disciplinary actions were disproportionate to the alleged misconduct. This problem was compounded by the failure of the command to indicate (in the LOR or LOC) why it was taking a particular action for misconduct that did not appear to warrant such discipline. There was also evidence that the command virtually ignored the applicant's financial issues and did not provide adequate counseling. Even after the applicant obtained financial counseling, the command continued to ignore the applicant's progress, choosing instead to discipline him for financial mismanagement that was not his fault or did not actually occur. Thus, the supervisory responses to the applicant's behavior were inconsistent, undirected, and almost whimsical. There appeared also to be inadequate command oversight of the supervisory personnel. In the end, the DRB concluded the command's capricious approach to the applicant's behavior

deprived the applicant of the rehabilitative effect of the disciplinary actions described above and that any rehabilitation that did take place was improperly disregarded by the command.

Issue 4: Applicant impliedly contends that his discharge was inequitable because it was too harsh. As noted above, some of the actions taken against the applicant were, given the absence of explanation to the contrary, unwarranted. At least one action appeared to be groundless. There was also no Article 15 punishment administered. Ordinarily, it is desirable for the command to resort to this rehabilitative tool before resorting to a discharge to give the member a chance to change their behavior. This step is not, however, required. Given the presumption of regularity, the command's decision not to administer such punishment will not be questioned. However, in this case, given the supervisory mismanagement and the lack of command attention, reassessment of the decision to discharge is warranted. The DRB concludes, then, that under these circumstances, the discharge was too harsh.

Even though these issues justify upgrading the discharge and changing the reason and authority, the DRB did not believe changing the reenlistment code was appropriate. The totality of the facts and circumstances suggested to the DRB that the applicant was simply not well suited for rigors of military service.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was inconsistent with the substantive requirements of the discharge regulation and was, therefore, inequitable.

In view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and that the reason for the discharge is more accurately described as Secretarial Authority. However, the reenlistment code will not be changed. The applicant's characterization and reason for discharge should be changed 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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 10 Jul 96 UP AFI 36-3208, para 5.26 & 5.26.4 (Unsatisfactory Performance). Appeals for Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 12 Oct 73. Enlmt Age: 17 2/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-76, E-67, G-68, M-52. PAFSC: 2T251 - Air Transportation Journeyman. DAS: 18 Aug 94.

b. Prior Sv: (1) AFRes 31 Dec 90 - 14 Nov 91 (10 months 15 days) (Inactive).

(2) Enlisted as AB 15 Nov 91 for 4 yrs. Extended 8 Jun 94 for 21 months. Svd: 3 yrs 11 months 9 days, all AMS. AMN - Unknown. A1C-(EPR Indicates): 15 Nov 91-14 Jul 93. sra - 15 Nov 94. EPRs: 3,3,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 25 Oct 95 for 6 yrs. Svd: 0 Yrs 8 Mo 15 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 20 MAY 96 - Financial irresponsibility.
LOC, 13 MAY 96 - Dereliction of duty.
LOR, 17 APR 96 - Financial irresponsibility.
LOR, 25 JAN 96 - Unsatisfactory performance.
LOR, 18 DEC 95 - Failure to obey an order to get a flu shot.
LOR, 11 DEC 95 - Dereliction of duty.
LOC, 16 OCT 95 - Failure to follow safety policies by wearing a ring on duty.
LOC, 12 AUG 95 - Dereliction of duty.

f. CM: None.

g. Record of SV: 9 Jun 95 - 15 May 96 Ranstein AB 2 (Cmdr Dir) REF

(Discharged from Luke AFB)

h. Awards & Decs: AFLSAR, AFTR, AFOUA, AFGCM, NDSM.

i. Stmt of Sv: TMS: (5) Yrs (6) Mos (10) Das
TAMS: (4) Yrs (7) Mos (26) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Apr 03.
(Change Discharge to Honorable, Change the RE Code, Reason and Authority for Discharge)

Issue 1: I was working with the financial counselor's assigned to me, had started the Auto Debits for all bill's (sic), one company gave me the wrong Bank infomation (sic) so the money for payment went to a new seperate (sic) account which they didn't know about so bill wasn't paid. Tried to fix but company wasn't willing to work with me.

ATCH

1. DD Form 149.

22MAY03/ia



DEPARTMENT OF THE AIR FORCE
AIR MOBILITY COMMAND (AMC)

10 JUN 1996

MEMORANDUM FOR SRA [REDACTED], 623 AMSS

FROM: 623 AMSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for failure to perform assigned duties properly and irresponsibility in the management of personal finances. The authority is AFPD 36-32 and AFI 36-3208, section E, paragraphs 5.26.1 and 5.26.4. 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 that:

a. You did, between on or about 13 Apr 96 and on or about 20 May 96, fail to pay several just debts. Specifically you were delinquent on your Enlisted Club account, AAFES DPP and UCDPP, auto insurance, video rental account, and to Quality American Finance, Inc. For your failures to pay these just debts in a timely fashion, you received a Letter of Reprimand (LOR) on 20 May 96. This LOR was filed in an Unfavorable Information File (UIF) on 28 May 96.

b. You did, on or about 13 May 96, bay baggage in the wrong bay locations. For this action, you received a Letter of Counseling (LOC) on 13 May 96.

c. You did, on or about 26 Mar 96, fail to pay a just debt to Quality American Finance, Inc. and had an overdue balance of \$857.11. For this action, you received an LOR dated 23 Apr 96 and a UIF was established. This LOR was filed in the UIF on 29 Apr 96.

d. You were, on or about 28 Dec 95, derelict in the performance of your duties by signing for registered mail without verifying the mail against the manifest and failing to complete the inventory of security cages according to standard shift change procedures. For this action, you received an LOR on 25 Jan 96.

e. You did, on or about 5 Dec 95, fail to get a flu shot as ordered. For this action, you received an LOR on 18 Dec 95.

f. You were, on or about 3 Dec 95, derelict in the performance of your duties by leaving U.S. registered mail in your custody unattended, not assigning the correct commodity/special handling code to an aircraft engine, and failing to fill out the right number forms completely when capping out cargo. For this action, you received an LOR on 11 Dec 95.

g. You did, on or about 16 Oct 95, fail to follow safety policies by wearing your ring while on duty, after being verbally counseled on this policy. For this action, you received an LOC on 16 Oct 95.

h. You did, on or about 11 Aug 95, fail to follow instructions by not removing items from the office by the end of your shift. For this action, you received an LOC on 12 Aug 95.

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 higher authority, will decide whether you will be discharged or retained in the United States 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 United States Air Force, and any special pay, bonus, or education assistance funds you have received may be subject to recoupment.


4. 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 with Capt. [REDACTED] Area Defense Counsel at Building 2111, DSN 480-2182/2492 on 13 Jun 95 at 1300. You may consult civilian counsel at your own expense. The Area Defense Counsel requests that you stop by their office prior to your appointment to pick-up the Administrative Discharge Booklet.

5. You have the right to submit statements in your behalf. Any statements you want the separation authority to consider must reach me NLT (3 duty days) 13 Jun at 1230 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 submit statements in your behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report in uniform, with an escort, to the base clinic (Physical Exams), at Building 2182 on 18 Jun 95 at 0830 for the examination. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them. You must abstain from alcohol 72 hours, fast 12 hours, and abstain from caffeine and nicotine 10 hours prior to your appointment.

8. 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 in the orderly room.


Commander

1st Lt Col, USAF

Attachments:

1. LOR, dated 20 May 96
2. Response to LOR, dated 22 May 96
3. AF 1058, UIF Action, dated 28 May 96
4. LOC, dated 13 May 96
5. LOR, dated 23 Apr 96
6. AF Form 1058, UIF Action, dated 29 Apr 96
7. LOC, dated 18 Apr 96
8. LOR, dated 18 Dec 95
9. LOR, dated 6 Feb 96
10. LOR, dated 11 Dec 95
11. LOC, dated 16 Oct 95
12. LOC, dated 12 Aug 95
13. Airman's Receipt of Notification Memorandum