

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
--	--------------------	--------------------------------

TYPE	PERSONAL APPEARANCE	X RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NAME OF COUNSEL AND OR ORGANIZATION	
No		
	X	

	Upgrade Discharge
[REDACTED]	Deny
[REDACTED]	Deny
[REDACTED]	Deny
[REDACTED]	Deny
[REDACTED]	Deny

ISSUES A94.05	INDEX NUMBER A67.90	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
HEARING DATE 12 Aug 2003	CASE NUMBER FD-2003-00256	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, 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]
--	---

INDORSEMENT		DATE: 08/13/2003
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-2003-00256

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.

ISSUE: Applicant does not contest his discharge; he merely states that his General discharge has had an adverse affect on his job prospects. He also states that the altercation between he and his fiancé was not intended and escalated out of control. The records indicated the applicant received an Article 15 for assault and for breaking a "no contact" order. Additionally, he received two Letters of Reprimand and two Letters of Counseling for failure to obey a lawful order, financial irresponsibility, missing appointments, and for missing a mandatory formation. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. 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.

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]
[REDACTED]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 3 Apr 98 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:-**

a. DOB: 4 Oct 77. Enlmt Age: 18 1/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-18, E-55, G-50, M-23. PAFSC: 4N031 - Medical Service Apprentice. DAS: 7 Jun 96.

b. Prior Sv: (1) AFRes 14 Nov 95 - 2 Jan 96 (1 month 20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Jan 96 for 4 yrs. Svd: 2 Yrs 3 Mo 1 Das, all AMS.

b. Grade Status: AB - 20 Nov 97 (Article 15, 20 Nov 97)
A1C - 3 May 97
AMN - (EPR Indicates): 3 Jan 96-2 Sep 97

c. Time Lost: None.

d. Art 15's: (1) 20 Nov 97, Lackland AFB, TX - Article 92. You, having knowledge of a lawful order issued by Captain [REDACTED] to have no contact whatsoever with A1C [REDACTED] an order which it was your duty to obey, did, in or near San Antonio, Texas, on or about 31 Oct 97, fail to obey the same by personally contacting her at her off-base residence. Article 128. You did, on or about 28 Oct 97, unlawfully strike A1C [REDACTED] several times in the face with your hand. In addition you fractured her rib. Reduction to AB. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 14 JAN 98 - Failure to obey a lawful order.
LOR, 03 JUL 97 - Financial irresponsibility.
RIC, 22 APR 97 - Missed appointment.
RIC, 04 FEB 97 - Missed mandatory formation.
Traffic Ticket, 01 JUL 96 - Failure to stop, and no proof of insurance.

f. CM: None.

g. Record of SV: 3 Jan 96 - 2 Sep 97 Lackland AFB 4 (Initial)

(Discharged from Lackland AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (4) Mos (21) Das

TAMS: (2) Yrs (3) Mos (1) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 22 May 03.
(Change Discharge to Honorable)

Issue 1: At this time in my career my general discharge has an adverse affect on my job prospects. I want to apply to the U.S. Postal Service or the Fire Department, however my DD Form 214 does not reflect Honorable in the character of discharge.

Issue 2: The altercation between myself and my fiance was not intended and escalated out of control. My own concern at the time was preventing further injury to myself that is the reason I restrained her. I did not intend to injury her in any way that was an accident. Apparently, the incident between [REDACTED] and myself was used as an example to other personnel hoping to deter any form of abuse in the future.

ATCH

1. Copy of Discharge Correspondence.

23JUN03/ia

DEPARTMENT OF THE AIR FORCE
WILFORD HALL MEDICAL CENTER (AETC)

14 Jan 98

MEMORANDUM FOR AB [REDACTED]

FROM: 421 MDSS/Sec C

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for **A Pattern of Misconduct**, specifically, **Conduct Prejudicial to Good Order and Discipline**. The authority for this action is AFPD 36-32 and AFI 36-3208, Paragraph 5.50.2. If my recommendation is approved, your service will be characterized as **Honorable** or **General**. I am recommending that your service be characterized as **Under Honorable Conditions (General)**.

2. My reasons for this action are:

a. On or about 01 Jul 96, you failed to obey an order or regulation, to wit: you received an Armed Forces Traffic Ticket for Failure to Stop at a Posted Stop Sign and No Insurance in your vehicle. For these infractions, you received a verbal counseling.

b. On or about 01 Feb 97, you failed to go at the time prescribed to your mandatory formation, to wit: you failed to show for a GI Party for all personnel assigned to Ward 5A. For this infraction, you received a Record of Individual Counseling (RIC) on 04 Feb 97.

c. On or about 21 Apr 97 at 1320 hours, you failed to go at the time prescribed to your mandatory appointment, to wit: you failed to report for your annual fitness exam at the Health and Wellness Center. For this infraction, you received a Record of Individual Counseling (RIC) on 22 Apr 97.

d. On or about 03 Jul 97, you received a Letter of Reprimand for knowingly presenting a worthless check for payment at the Base Exchange.

e. On or about 28 Oct 97, you unlawfully assaulted a female military member several times in the face with your hand. In addition, you fractured her ribs. On or about 31 Oct 97, you failed to obey a direct order, to wit: you were ordered by your commander you were to have no contact with the same female military member and you failed to obey by personally contacting her at her off-base residence. For these infractions, you received an Article 15 on 20 Nov 97. Your nonjudicial punishment was a reduction to the grade of Airman Basic (E-1) with a new date of rank of 20 Nov 97.

f. On or about 10 Jan 98, you failed to obey a direct order, to wit: you were ordered by your commander that you were restricted to base and filed to obey by attending a local night club. For this infraction, you received a ~~Letter of Counseling (LOC)~~ on 14 Jan 98.

Letter of Reprimand (LOR)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM 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.
4. You have the right to counsel. Military Legal Counsel has been obtained for you. I have made an appointment for you to consult Capt [REDACTED] at Building Number 1000, on 16 Jan 98 at 0930 hours. You may consult civilian counsel at your own expense. If employed, civilian counsel must be readily available.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three workdays, 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, 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 Building 6612, Rm 502, Monday through Friday, between 1300 - 1500 with your medical, immunization, and dental records for the examination.
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 at the Critical Care Orderly Room.

[REDACTED]
[REDACTED], Capt, USAF, NC
Commander, 421 MDSS/Sec C

Attachments:

- 1a. DD Form 1408, 01 Jul 96
- 1b. AF Form 174, 04 Feb 97
- 1c. AF Form 174, 22 Apr 97
- 1d. LOR, 03 Jul 97
- 1e. AF Form 3070 w/ atchs, 20 Nov 97
- 1f. LOG, 14 Jan 98
- 1g. Statement of Understanding
2. Airman's Receipt of Notification Memorandum