

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN			
[REDACTED]		AMN	[REDACTED]			
TYPE	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
ISSUES	INDEX NUMBER	EXHIBITS SUBMITTED TO THE BOARD				
A94.05	A67.90	1	ORDER APPOINTING THE BOARD			
		2	APPLICATION FOR REVIEW OF DISCHARGE			
		3	LETTER OF NOTIFICATION			
HEARING DATE	CASE NUMBER	4	BRIEF OF PERSONNEL FILE			
31 JUL 03	FD2003-0273		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	
[REDACTED]		[REDACTED]	
INDORSEMENT		DATE: 31 JUL 03	
TO:	FROM:		
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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

FD03-0273

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 or impropriety, which would justify a change of discharge.

ISSUE: Applicant contends that his discharge was too harsh because he never had any work related problems. The record indicates the applicant received an Article 15 for assault, a conviction by civilian authorities for assault, and two Letters of Reprimand for assault and failure to obey an order and making a false official statement. The applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation 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 found no evidence of any inequity or impropriety 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

h. Awards & Decs: AFAM, AFTR, NDSM, AFOUA, SB.

i. Stmt of Sv: TMS: (3) Yrs (7) Mos (24) Das
TAMS: (3) Yrs (5) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 May 03.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. DD Form 214.
2. Applicant's Issues.
3. Three Character References.

27JUN03/ia



DEPARTMENT OF THE AIR FORCE

91ST SPACE WING (AFSPC)

FD 2005-00215

APR 14 2005

MEMORANDUM FOR AMN [REDACTED] 741 MS

FROM: 741 MS/CC

SUBJECT: Letter of Notification – AFI 36-3208, Para 5.50.2

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 AFDP 36-32, *Military Retirements and Separations*, 14 Jul 93, and AFI 36-3208, *Administrative Separation of Airmen*, 10 Mar 00, Chapter 5, Section H, paragraph 5.50.2. If my recommendation is approved, your discharge will be characterized as honorable or general. I am recommending your service be characterized as general.

2. My reasons for this action are:


a. On or about 5 Mar 03, following a guilty plea, you were convicted by civilian authorities for Simple Assault, a Class A misdemeanor. You were placed on probation for 1 year, ordered to complete 100 hours of community service, and ordered to file quarterly reports with the clerk of District Court. (Atch 3)

b. You did, at or near Minot Air Force Base, North Dakota, on or about 19 Apr 02, unlawfully strike Staff Sergeant [REDACTED] on the face with your hand, requiring him to receive five stitches below his left eye and causing a bloody nose and cuts to his temple and mouth. You were punished under Article 15 of the UCMJ on 19 May 02 and this incident was added to your existing Unfavorable Information File (UIF). (Atch 4)

c. On or about 30 Oct 01, you assaulted a fellow airman during basketball practice at the base fitness center. You were given a Letter of Reprimand (LOR) on 13 Nov 01. This incident was added to your existing UIF and you were placed on a Control Roster on 19 Nov 01. (Atch 5-6)

d. On or about 23 Dec 00, you and two other individuals attempted to enter a local nightclub. The local police stated you attempted to enter the establishment using your New York drivers license and the second individual used your Military Identification Card. As a result, the security guard confiscated both ID's. You pulled your license from the security guard's hand and fled the scene along with the other two individuals. On or about 26 Dec 00 you told your supervisor you lost your Military ID and went to the military personnel flight and got a new one. The nightclub security guard turned your military ID over to the Minot Police department who in turn give it to Minot AFB officials. You were given an LOR and a UIF was established on 19 Mar 01. (Atch 7-8)

3. The Letter of Notification with attachments will be forwarded to the separation authority in support of this recommendation. The Commander exercising SPCM jurisdiction (5 BW/CC) 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 consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Capt [REDACTED] Area Defense Counsel, at 300 Summit Drive, Room 306A, at 1400 hours, on 18 APR 03, 2003. You may consult civilian legal counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 1030 hours, on 23 APR 03 2003, unless you request and receive an extension for good cause shown. I will then send them to the separation authority.
6. If you fail to consult legal 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 the 5th Medical Group Hospital, 10 Missile Avenue, Minot AFB, ND at 1445 hours, on 22 APR 03 2003 for the examination. You must not drink alcoholic beverages 72 hours prior to the exam.
8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement of 1974. A copy of AFI 36-3208 is available for your use in the Orderly Room.
9. Execute the attached acknowledgment and return it to me immediately.

 Lt Col, USAF
Commander, 741st Missile Squadron

Attachments: (listed on next page)

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. Civilian Judgment, 5 Mar 03
4. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 10 Jun 02
5. Letter of Reprimand, 13 Nov 01
6. AF FM 1058, Unfavorable Information File Action, 19 Nov 01
7. Letter of Reprimand, 19 Mar 01
8. AF FM 1058, Unfavorable Information File Action, 19 Mar 01
9. AF FM 1137, Unfavorable Information File Summary