

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]				GRADE AB		AFSN/SSAN [REDACTED]	
TYPE GEN		PERSONAL APPEARANCE			<input checked="" type="checkbox"/> RECORD REVIEW		
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
							X
							X
							X
							X
							X
ISSUES A94.05		INDEX NUMBER A67.10		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			
				ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
				TAPE RECORDING OF PERSONAL APPEARANCE			
HEARING DATE 22 Apr 2004		CASE NUMBER FD-2003-00431					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE							
Case heard at Andrews AFB MD							
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.							
<div style="position: relative;"> <div style="position: absolute; top: 0; right: 0; font-family: cursive; font-size: 2em;">man</div> </div>							
INDORSEMENT				DATE: 5/6/2004			
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

FD-2003-00431

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 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: The applicant contends discharge was inequitable because it was too harsh and that his misconduct was the direct result of medical illness diagnosed after discharge. The records indicated the applicant received two Articles 15, one Letter of Reprimand, and four Letters of Counseling for misconduct spanning approximately two years, 8 months. The DRB reviewed the service medical record and noted the recurring problems of sinusitis and pneumonia relating to the subsequent diagnosis of immune deficiency. However there was no direct temporal correlation that might have related illness to incidents such as sleeping on post and late for duty, and no relationship to infractions such as having unauthorized reading material on post, failing room inspection, failing Stan-Eval test, unprofessional attitude and behavior, and unauthorized use of the government travel card. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 12 Jun 97 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 Dec 70. Enlmt Age: 23 2/12. Disch Age: 26 5/12. Educ: HS DIPL. AFQT: N/A. A-40, E-76, G-86, M-83. PAFSC: 3P051 - Security Specialist. DAS: 11 Aug 94.

b. Prior Sv: (1) AFRes 11 Mar 94 - 29 Mar 94 (19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 30 Mar 94 for 4 yrs. Svd: 3 Yrs 2 Mo 14 Das, all AMS.

b. Grade Status: A1C - 08 May 97 (Article 15, 8 May 97)
SrA - 30 Jul 96

c. Time Lost: None.

d. Art 15's: (1) 08 May 97, Langley AFB, VA - Article 113. You, on or about 23 Apr 97, being posted as a sentinel at Entry Control Point Echo-7, 50 West Flightline Road, were found sleeping at your post. Reduction to A1C. (Appeal/Denied) (No mitigation)

(2) 11 Aug 95, Langley AFB, VA - Article 92. You, having knowledge of a lawful order issued by Lt Col [REDACTED], 1st Security Police Squadron Commander, not to use your United States Government American Express charge card except for authorized, official travel expenses, an order which it was your duty to obey, did within the territorial limits of the United States, on divers occasions between on or about 26 May 95 and about 24 Jul 95, fail to obey the same by wrongfully using said card for personal purposes. Suspended reduction to Airman, 14 days restriction, and 9 days extra duty. (Appeal/Withdrawn) (No mitigation)

e. Additional: LOC, 21 MAR 96 - Failed Stan-Eval test, displaying an unprofessional and immature attitude.

LOC, 11 FEB 96 - Late for work.

LOC, 04 APR 95 - Failed room inspection.

LOC, 14 SEP 94 - Having unauthorized reading material on post.

LOR, 10 SEP 94 - Sleeping on post.

f. CM: None.

g. Record of SV: 30 Mar 94 - 29 Nov 95 Langley AFB 3 (Initial)
 30 Nov 95 - 18 Dec 96 Langley AFB 4 (Annual)

(Discharged from Langley AFB)

h. Awards & Decs: AFTR, SWASM W/1 DEV, NDSM, AFEM.

i. Stmt of Sv: TMS: (3) Yrs (3) Mos (2) Das
 TAMS: (3) Yrs (2) Mos (14) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 3 Sep 03.
 (Change Discharge to Honorable)

Issue 1: My service record will show that I was discharged due to misconduct. My incidences of misconduct all occurred (sic) after the chemical poisoning incident that caused my disability. My Superiors attempted to have me Court-Martialed when my chronic illness began to affect my job performance. Rather than face the constant scrutiny and allegations of malingering; I tried to keep working through the illness. Eventually I became physically and mentally exhausted to the point of collapse. It took three years of my own time and money before I was diagnosed w/ (sic) Common Variable Immune Deficiency, complicated by Acute Hemolytic Anemia. Both conditions are chronic, permanent and potentially fatal; they also the reasons for my substandard performance which lead to my discharge.

ATCH

1. Applicant's Letter to the Air Force Discharge Review Board.
2. Enlisted Performance Reports(2).
3. Special Order TE-1031.
4. VA Rating Decision.
5. Copy of Medical Documents.
6. Letter of Appreciation.

9DEC03/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

U.S. AIR FORCE

1947-1997

MEMORANDUM FOR A1C [REDACTED]

FROM: 1 SPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, paragraph 5.49 for minor disciplinary infractions. If my recommendation is approved, your service will be characterized with either an honorable or an under honorable conditions (general) discharge. I am recommending that your service be characterized with an under honorable conditions (general) discharge.
2. My reasons for this action are:
 - a. You, on or about 10 September 1994 at Langley Air Force Base Virginia, being posted as a sentinel at Entry Control Point Echo-7 area, were found sleeping. For this misconduct you received a letter of reprimand on 10 September 1994. (Attachment 1)
 - b. You were, on or about 14 September 1994, found to have unacceptable reading material on post. For this misconduct you received a letter of counseling on 15 September 1994. (Attachment 2)
 - c. You did, on or about 4 April 1995, fail to meet military standards, in that your room did not meet Air Force standards. For this misconduct you received a letter of counseling on 4 April 1995. (Attachment 3)
 - d. You, having knowledge of a lawful order issued by Lieutenant Colonel [REDACTED] 1st Security Police Squadron/Commander, not to use your United States Government American Express charge card except for authorized, official travel expenses, an order which it was your duty to obey, did within the territorial limits of the United States, on divers occasions between on or about 26 May 1995 and about 24 July 1995, fail to obey the same by wrongfully using said card for personal purposes. For this misconduct you received nonjudicial punishment on 11 August 1995, consisting of suspended reduction to the grade of Airman (E-2), restriction to Langley Air Force for 14 days, and 9 days extra duty. (Attachment 4)
 - e. You did, on or about 11 February 1996, without authority, fail to report to your appointed place of duty on time. For this incident you received a letter of counseling on 11 February 1996. (Attachment 5)

f. You did, on or about 19 March 1996, fail to meet military standards by failing your Standard Evaluation. For this incident you received a letter of counseling on 21 March 1996. (Attachment 6)

g. You, on or about 23 April 1997 at Langley Air Force Base Virginia, being posted as a sentinel at Entry Control Point Echo-7, 50 West Flightline Road, were found sleeping at your post. For this misconduct you received nonjudicial punishment on 8 May 1997, consisting of reduction to the grade of Airman First Class (E-3). (Attachment 7)

Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

3. 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 Captain [REDACTED] Area Defense Counsel, 56 Willow Street, Suite 101, Ext 5607 at 1000 hours on 4 June 1997. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1630, 4 June 1997 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the 1st Medical Group, Physical Exam Section at 1030 hours on 30 May 1997 and an additional appointment will be scheduled if necessary. You must bring your medical records to your scheduled appointment.

7. 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 unit orderly room.

8. Execute the attached acknowledgment and return it to me immediately.



Lt Col, USAF

1 SPS, Commander

Attachments:

1. LOR (10 Sep 94)
2. LOC (15 Sep 94)
3. LOC (4 Apr 95)
4. Article 15 (11 Aug 95)
5. LOC (11 Feb 96)
6. LOC (21 Mar 96)
7. Article 15 (8 May 97)
8. Receipt of Notification