

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE A1C	AFSN/SSAN ██████████
--	---------------------	--------------------------------

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

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

ISSUES	A93.19 A92.37 A93.07 A92.11	INDEX NUMBER	A61.00	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
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE

HEARING DATE	15 Apr 2004	CASE NUMBER	FD-2003-00558
---------------------	-------------	--------------------	---------------

APPLICANT'S ISSUE AND THE BOARD'S DECISION ARE NATIONAL AND DISCLOSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISION 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.

INDORSEMENT		DATE 15 APR 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

CASE NUMBER

FD-2003-00558

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.

ISSUES:

Issue 1. Applicant infers discharge was inequitable because it was too harsh. Applicant was discharged as a result of his civilian conviction and being sentenced to 12 years in prison (3 years suspended) for off base armed robbery of two foreign nationals. The records also indicated the applicant received an Article 15 for stealing the personal property of his estranged wife, and a Letter of Reprimand for a civilian arrest incident to a domestic assault. Applicant felt his record of below-the-zone promotion and other acts of merit were not substantially considered and form a basis for an upgrade to his discharge. The DRB points out that a member of the Air Force is expected to maintain high standards of conduct both on and off duty. The offenses committed by applicant are illegal by both military and civilian standards. Furthermore, his actions brought severe discredit to the Air Force and significantly outweigh his overall record of service, and thus warrant the characterization of service received.

Issue 2. Applicant notes he had marital problems which led to drinking and depression that adversely impacted his behavior. While it is understandable that a member experiencing personal problems has additional stress, the applicant's problems were not unique and were not of sufficient mitigation to explain his misconduct. After examining the records, the Board finds the discharge was procedurally proper and equitable and no change is warranted.

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

MISSING MEDICAL RECORDS
 (Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 7 Oct 02 UP AFI 36-3208, para 5.51 (Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Nov 74. Enlmt Age: 18 3/12. Disch Age: 27 10/12. Educ: HS DIPL. AFQT: N/A. A-60, E-43, G-33, M-23. PAFSC: 2T031 - Traffic Management Apprentice. DAS: 21 Aug 95.

b. Prior Sv: (1) AFRes 20 Feb 93 - 9 Sep 93 (6 months 21 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 10 Sep 93 for 4 yrs. Svd: 9 Yrs 0 Mo 27 Das, of which AMS is 4 yrs 9 months 21 days (excludes 4 yrs 3 months 7 days lost time)

b. Grade Status: A1C - 10 Jan 95
 Amn - 10 Mar 94

c. Time Lost: 4 yrs 3 months 7 days.

d. Art 15's: (1) 15 Apr 96, Eielson AFB, NE - Article 121. You, did, on or about 29 Mar 96, steal personal property, of a value of about \$200.00, the property of [REDACTED] Article 134. You, were on or about 29 Mar 96, disorderly. Suspended reduction to Airman. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 10 Sep 93 - 09 May 95 Minot AFB 5 (Annual)
 10 May 95 - 17 Apr 96 Eielson AFB 3 (CRO) REF

(Discharged from Eielson AFB)

h. Awards & Decs: AFTR, AFGCM, NDSM, AFAM.

i. Stmt of Sv: TMS: (5) Yrs (4) Mos (11) Das
 TAMS: (4) Yrs (9) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 12 Dec 03.
 (Change Discharge to Honorable)

Issue 1: I [REDACTED] was enlisted in the U.S. Air Force from 93-96. During that time I grew from a boy to a man. I made below the zone plus I did other things of high praise in my unit. My first military (sic) base was Minot AFB. I was transfered (sic) to Eielson where my military (sic) career began to suffer. My marriage was due to a lot of that. I entered an (sic) center for depression and drinking. Upon my return my wife was gone along with everything I owned. I moved back into the dorms from base housing. That's where I met my roommate [REDACTED]. During this time I was drinking. I began to get in trouble, I caught an armed robbery charge for making a phone call. I was discharged from the Air Force. I would like to get my discharge upgraded upon my release from prison. Since being released I have obtained my liscenese (sic) and trouble free. I hope you can grant my request. Thank for you (sic) time.

ATCH
None.

6FEB04/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2063-00558

AUG 6 1997

MEMORANDUM FOR A1C [REDACTED] 354 TRNS, (PACAF)

FROM: 354 TRNS/CC

SUBJECT: Notification Letter--Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct - Civil Conviction in accordance with AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.51. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is:

a. On 19 Jun 97, you were convicted of robbery by the Superior Court for the State of Alaska, receiving a sentence of 12 years. This was evidenced by Judgement and Order of Commitment and Probation (Atch 1).

3. This action could result in your separation with an under other than honorable discharge. I am recommending that you receive an under other than honorable discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. In addition, any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to:

a. Consult legal counsel.

b. Present your case to an administrative discharge board. If a board hearing is desired and you are unable to personally appear, the board will be held in your absence.

c. Be represented by legal counsel at a board hearing.

d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.

e. Waive the above rights. You must consult with legal counsel before making a decision to waive any of your rights.

5. Military legal counsel located at Elmendorf AFB, AK, has been appointed to assist you. You may contact your counsel at 907-552-3887. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to

employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

6. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing. If a discharge is approved, it will not be executed until you have been released from confinement.

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. Please consult with your Area Defense Counsel to obtain a copy.

8. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

9. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).

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



Major, USAF
Commander

Attachments:

1. Court documents, dated 19 Jun 97