

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
-----------------	----------------------------	----------	----------------------

COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	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 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 14 Jan 2004	CASE NUMBER FD-2003-00486
------------------------------------	-------------------------------------

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

--

INDORSEMENT	DATE: 01/14/2004
--------------------	-------------------------

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-2003-00486

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.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s. The first one for being AWOL for 3 days, disobeying a lawful order, and dishonorably failing to pay his debt. The second Article 15 was for failure to go. He also received a Vacation action under the UCMJ for being AWOL again. In addition, he received one Letter of Reprimand and one Letter of Counseling, both for dereliction of duty. Applicant states that his discharge was based on one isolated incident in 87 months of service. This issue is unfounded based on the above incidents of misconduct. 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

(Former AB) (HGH SRA)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 20 Aug 99 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 10 Dec 72. Enlmt Age: 19 0/12. Disch Age: 26 8/12. Educ: HS DIPL. AFQT: N/A. A-36, E-81, G-66, M-78. PAFSC: 3P051 - Security Forces Journeyman. DAS: 5 May 97.

b. Prior Sv: (1) AFRes 19 Dec 91 - 12 May 92 (4 months 27 days) (Inactive).

(2) Enlisted as AB 13 May 92 for 4 yrs. Extended 15 Nov 94 for 10 months. Reenlisted as SrA 21 Sep 95 for 4 yrs. Svd: 4 yrs 7 months 25 days, all AMS. AMN - 13 NOV 92. A1C - 13 SEP 93. SRA - 13 NOV 94. EPRs: 5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 8 Jan 97 for 4 yrs. Svd: 2 Yrs 7 Mo 12 Das, of which AMS is 2 yrs 7 months 9 days (excludes 3 days lost time)

b. Grade Status: AB - 14 Jul 99 (Article 15, 14 Jul 99)
AMN - 4 Dec 98 (Vacation of Article 15, 1 Mar 99)

c. Time Lost: 19 Nov 98 thru 21 Nov 98 (3 days).

d. Art 15's: (1) 14 Jul 99, MacDill AFB, FL - Article 86. You did, on or about 25 Jun 99, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB, 15 days restriction, and 15 days extra duty. (No appeal) (No mitigation)

(2) 1 Mar 99, Vacation, MacDill AFB, FL - Article 86. You did, on or about 30 Jan 99, without authority, absent yourself from your place of duty at which you were required to be. Reduction to Airman. (No appeal) (No mitigation)

(3) 4 Dec 98, MacDill AFB, FL - Article 86. You did, on or about 19 Nov 98, without authority, absent yourself from your place of duty at which you were required to be, and did remain so absent until on or about 21 Nov 98. Article 92. You, having knowledge of a lawful order

issued by Lt Col [REDACTED] not to leave the boundaries of MacDill AFB, Florida, an order which it was your duty to obey, did, on or about 19 November 1998, fail to obey the same by wrongfully departing the base. Article 134. You, being indebted to American Express Government Services charge card in the sum of \$885.13, which amount became due and payable on or about 26 Jul 98, did, from on or about 26 Jul 98 to on or about 29 Nov 98, dishonorably fail to pay said debt. Suspended reduction to Airman. Forfeitures of \$150.00 pay per month for 2 months, 45 days restriction and 45 days extra duty. (No appeal) (No mitigation)

e. Additional: LOC, 03 SEP 98 - Dereliction of duty.
LOR, 11 JAN 98 - Dereliction of duty.

f. CM: None.

g. Record of SV: 19 Jan 96 - 18 Jan 97 Incirlik AB 5 (Annual)
19 Jan 97 - 18 Jan 98 MacDill AFB 5 (Annual)
19 Jan 98 - 12 Mar 99 MacDill AFB 2 (Annual)

(Discharged from MacDill AFB)

h. Awards & Decs: AFAM W/2 OLCS, AFOUA W/2 OLCS. AFGCM W/2 OLCS, NDSM, AFEM, SWASM W/1 BBS, HSM, AFOSSTR, AFOSLTR, AFLSAR, NCOPMER, SAEMR, AFTR.

i. Stmt of Sv: TMS: (7) Yrs (6) Mos (28) Das
TAMS: (7) Yrs (3) Mos (5) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Aug 03.
(Change Discharge to Honorable)

Issue 1: My discharge was inguitable because it was based on one isolated incident in 87 months of service with no other related adverse action.

ATCH

1. Character References(2).
2. Enlisted Performance Reports(5).
3. Supplemental Evaluation Sheet.
4. Air Force Achievement Medals(3).
5. Letter of Congratulations(3).
6. Letters of Appreciation(3).

3DEC03/ia

FD 2003 - 00486

DEPARTMENT OF THE AIR FORCE
6th AIR REFUELING WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA

MEMORANDUM FOR AIRMAN BASIC [REDACTED]

FROM: 6 SFS/CC

SUBJECT: Notification Letter -- Board Hearing

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions, according to AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.49. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are as follows:

a. On 8 Jan 98 you were derelict in your duties by not completing the appropriate paperwork at your post prior to being relieved of duty, as recorded on a Letter of Reprimand, dated 11 Jan 98.

b. On 1 Sep 98 you failed to properly utilize the Security Forces priority code, as recorded on a Letter of Counseling, dated 3 Sep 98.

c. You engaged in the following misconduct:

1. On 19 Nov 98, without authority, you were absent from your place of duty, without authority.

2. On 19 Nov 98, having knowledge of a lawful order issued by your commander, Lt. Col. [REDACTED] not to leave the boundaries of MacDill Air Force Base, Florida, an order which it was your duty to obey, you failed to obey the lawful order of your commander by wrongfully departing the base.

3. From 26 Jul 98 to 29 Nov 98, being indebted to American Express Government Services charge card in the sum of \$885.13, you dishonorably failed to pay said debt.

This misconduct was recorded on a Record of Nonjudicial Punishment, dated 10 Dec 98.

d. On 30 Jan 99, you were absent, without authority, from your place of duty at which you were required to be, as recorded on an AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 2 Mar 99

e. On 25 Jun 99, without authority you failed to go at the time prescribed to your appointed place of duty, as recorded on an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 20 Jul 99

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under honorable conditions (general) discharge. The commander exercising Special Court-Martial jurisdiction or a higher authority will make the final decision in this manner. If you are discharged, you will not be eligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces.

4. You have the right to:

a. Consult legal counsel.

b. Present your case to an administrative discharge board.

c. Be represented by counsel at an administrative discharge board hearing.

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

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

5. You have been scheduled for a medical examination. You must report to the Physical Exams element, 6th Medical Group Hospital, on 28 July at 0900 hrs.

6. Military legal counsel, Captain [REDACTED], has been obtained to assist you. His office phone is (813) 828-4455. An appointment has been scheduled for you to consult him on 27 July at 1400 hrs. Instead of the appointed counsel, you may request 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.

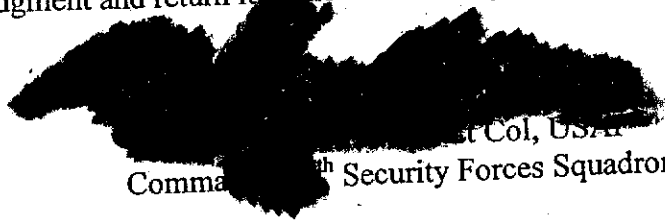
7. Confer with your counsel and reply, in writing, **within 7 workdays**, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your 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.

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 unit orderly room.

9. 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.

(PD2003-00486

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



1st Col, USAF
Commander, Security Forces Squadron

Attachments:

1. Respondent's Acknowledgment
2. Letter of Reprimand, dated 11 Jan 98
3. Letter of Counseling, dated 3 Sep 98
4. AF Form 3070, Record of Nonjudicial Punishment, dated 10 Dec 98
5. AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 2 Mar 99
6. AF Form 3070, Record of Nonjudicial Punishment, dated 20 Jul 99