

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ████████████████
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TYPE GEN	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 A92.35	INDEX NUMBER A67.30	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 09 Mar 2004	CASE NUMBER FD-2003-00503	
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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: 3/9/2004
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-2003-00503

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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Articles 15 for misconduct. The misconduct included stealing government property of a value more than one hundred dollars, disorderly conduct, and domestic battery. 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.

Issue 2. 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 accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 22 Jul 02 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 9 Dec 76. Enlmt Age: 20 8/12. Disch Age: 25 7/12. Educ: HS DIPL. AFQT: N/A. A-98, E-86, G-70, M-82. PAFSC: 2A652 - Aerospace Ground Equipment Journeyman. DAS: 5 Jul 01.

b. Prior Sv: (1) AFRes 26 Aug 97 - 24 Nov 97 (2 Months 29 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AMN 25 Nov 97 for 6 yrs. Svd: 4 Yrs 7 Mos 28 Das, all AMS.

b. Grade Status: AB - 27 Feb 02 (Article 15, 27 Feb 02)
 A1C - 13 Sep 01 (Article 15, 13 Sep 01)
 SRA - 25 Nov 00
 A1C - 10 Jan 98

c. Time Lost: None.

d. Art 15's: (1) 27 Feb 02, Davis Monthan AFB, AZ - Article 121. You did, on divers occasion between on or about 1 Mar 00 an on or about 31 Jul 01, steal various tools, tool cabinets, a tool box, and support equipment parts, military property, of a value of more than \$100, the property of the United States Air Force. Reduction to AB, 45 days restriction, and 45 days extra duty. (Appeal/Denied) (No mitigation)

(2) 13 Sep 01, Davis Monthan AFB, AZ - Article 128. You did, unlawfully grab A1C [REDACTED] by her arms with your arms, throw her to the ground with your hands, and cover her mouth with your hand. Article 134. You were, on or about 30 Jul 01, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Reduction to A1C, suspended reduction to AMN, and 45 days extra duty (30 days suspended). (Appeal/Denied) (No mitigation)

e. Additional: OSI Report, 13 MAR 00 - Impersonating an AFOSI Special Agent and battery of girlfriend.

f. CM: None.

g. Record of SV: 25 Nov 97 - 24 Jul 99 Kadena AB 4 (Initial)
25 Jul 99 - 24 Jul 00 Kadena AB 4 (Annual)

(Discharged from Davis Monthan AFB)

h. Awards & Decs: AFTR, AFOLTR, AFLSA, SAEMR, NDSM, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (4) Yrs (10) Mos (27) Das
TAMS: (4) Yrs (7) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 28 Oct 03.
(Change Discharge to Honorable)

Issue 1: I feel that the evidence used against myself from my ex wife (sic) [REDACTED] who was also in the military was unfair & unjust due to the fact we were in divorce proceedings (sic) and she was in a position to say what she wanted. I also feel I had a excellent service record as I was a hard worker & recieved (sic) many awards & medals. This is recored (sic) in my files also for you to view. I would also like to persue (sic) a career and with a status of general discharge does not look well on a resume. Thank you for your time.

ATCH
None.

8 Jan 04/cr



DEPARTMENT OF THE AIR FORCE
355TH EQUIPMENT MAINTENANCE SQUADRON (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

MAR 18 2002

MEMORANDUM FOR AB [REDACTED], 355 EMS

FROM: 355 EMS/CC

SUBJECT: Notification Memorandum – Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct, specifically commission of a serious offense. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52.3. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.
2. My reason for this action is that at or near Kadena AB, Japan, on various occasions between on or about 1 Jul 98 and 31 Jul 01, you stole various tools, tool cabinets, a tool box, and support equipment parts, military property, of a value of more than \$100, the property of the United States Air Force. As a result, you received punishment under Article 15 of the UCMJ.
3. In recommending your discharge, I am also considering the following information (Tab 6):
 - a. On or about 29 Feb 00, you confessed to special agents of the Air Force Office of Special Investigation (AFOSI) that at or near Kadena AB, Japan, you had impersonated an AFOSI special agent and had battered your girlfriend.
 - b. On or about 30 Jul 01, at or near Carson, California, you unlawfully grabbed your wife, A1C [REDACTED], by her arms with your arms, threw her to the ground with your hands, and covered her mouth with your hand. You also were disorderly, which conduct was of a nature to bring discredit upon the armed forces. As a result, you received punishment under Article 15 of the UCMJ and an Unfavorable Information File was established.
 - c. On or about 3 Aug 01, you were given a lawful order not to have any type of contact with your wife, A1C [REDACTED] until further notice.
4. This action could result in your separation with an under other than honorable conditions (UOTHC) discharge. I am recommending you receive a UOTHC 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

PG 1 of 4 PGS

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5. You have the right to:
 - a. Consult legal counsel.
 - b. Present your case to an administrative discharge board.
 - 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 legal counsel before making a decision to waive any of your rights.

6. You have the right to consult counsel. Military legal counsel, Capt [REDACTED] AFLSA/ADC, 228-5664, has been obtained to assist you. An appointment has been scheduled for you to consult her on 19 Mar 02 at 0815 hours in Bldg 3510. 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.

7. Confer with your counsel and reply, in writing, by 27 Mar 02 specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also may submit written statements in your behalf. I will send the statements to the discharge authority with the case file to be considered with recommendation. If you fail to respond, your failure will constitute a waiver of the right to a board hearing.

8. You have been scheduled for a medical examination. You must report to the Physical Exams Office of the Aeromedical Facility, Bldg 400, Rm 163, at 0800 hrs on 18 Mar 02 for the examination.

9. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, Bldg 3200, Rm 20, at 0900 hrs on 19 Mar 02 for the briefing. If you have questions, please call 228-5366.

10. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. You may contact the Area Defense Counsel or your unit commander's support staff to obtain a copy of AFI 36-3208.

11. 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.

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

[REDACTED]
[REDACTED] Maj, USAF
Commander

Attachments:

1. Supporting Documents: Article 15, 27 Feb 02 (3 pages) w/Evidence (31 pages), Response (2 pages), and Appeal (3 pages)
2. Airman's Receipt of Notification Memorandum