

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
<input type="checkbox"/>	<input checked="" type="checkbox"/>		

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

ISSUES	A94.11 A92.35 A92.37	INDEX NUMBER	A67.90		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	30 Jul 2004	CASE NUMBER	FD-2003-00521
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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.

[Signature]

TO:	DATE: 31 Jul 2004
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-2003-00521

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: Applicant was discharged for conduct prejudicial to good order and discipline. He had two Articles 15, both for disobeying a direct order to report to the immunization clinic to receive his anthrax vaccinations after deploying to the United Arab Emirates (UAE) for an extended temporary duty assignment. At the time member departed for the deployment, the anthrax vaccination program was on hold; it resumed while he was in the UAE. Applicant now states his discharge was too harsh because the reasons for his refusal to take the vaccine were not sufficiently addressed. The Board noted that both medical staff and legal staff in the deployed location counseled member about the anthrax vaccine program; he was advised of its affects and given educational information. However, applicant further contends that the information he received was inadequate, failing to address his concerns, but rather threatening him with the disciplinary consequences of failing to take the shot. The Board could not verify the content of the deployed location's anthrax education program, but noted that member's thoughts about the anthrax vaccine program were based on essentially personal opinion garnered from internet research regarding an alleged unacceptable health risk. Personal opinion cannot be the basis of questioning the morality or wisdom of a Department of Defense directive; all military members must obey orders given with a valid military purpose. The anthrax vaccine program is based on a military readiness obligation, and personal philosophy or unfounded health concerns do not excuse a military member from obedience. Such a contention has no place in a military organization grounded in good order and discipline. Therefore the Board concluded applicant's misconduct was a significant departure from conduct expected of all military members and the Board finds the discharge proper. No inequity or impropriety was found in this discharge in the course of the records review.

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]
 (Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Minot AFB, ND on 8 Jan 03 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Sep 80. Enlmt Age: 19 0/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-48, E-35, G-46, M-34. PAFSC: 3M051 - Services Journeyman. DAS: 17 Mar 00.

b. Prior Sv: (1) AFRes 25 Sep 99 - 16 Nov 99 (1 month 23 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 17 Nov 99 for 4 yrs. Svd: 3 Yrs 1 Mo 23 Das, all AMS.

b. Grade Status: AB - 31 Oct 02 (Article 15, 31 Oct 02)
 A1C - 17 Mar 01
 Amn - 17 May 00

c. Time Lost: None.

d. Art 15's: (1) 31 Oct 02, Minot AFB, ND - Article 90. You, having received a lawful command from Col [REDACTED], your superior commissioned officer, then known by you to be your superior commissioned officer, to receive the anthrax vaccination no later than 1600 hours on 26 Oct 02, or words to that effect, did, at Al Dhafra AB, United Arab Emirates, on or about 26 Oct 02, willfully disobey the same. Reduction to AB, and forfeiture of \$339.00 pay. (No appeal) (No mitigation)

(2) 25 Oct 02, Minot AFB, ND - Article 90. You, having received a lawful command from 1LT [REDACTED], your superior commissioned officer, then known by you to be your superior commissioned officer, to receive the anthrax vaccination at 1400 hours, 19 Oct 02, or words to that effect, did, at Al Dhafra AB, United Arab Emirates, willfully disobey the same. Suspended reduction to Airman. Forfeiture of \$362.00 pay. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 18 Nov 99 - 16 Jul 01 Minot AFB 3 (Initial)
17 Jul 01 - 01 Jun 02 Minot AFB 4 (CRO)

h. Awards & Decs: AFTR, NDSM, AFOUA W/VALOR, SB.

i. Stmt of Sv: TMS: (3) Yrs (3) Mos (15) Das
TAMS: (3) Yrs (1) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 5 Nov 03.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Discharge Characterization.
3. Memorandum For 380 ESVS/CC.
4. Pending Lawsuit on Anthrax Vaccine.
5. Prepared Statement by General Council of Veterans for Integrity and Government.
6. Letters from Congressmen.
7. The Presidential Candidates Weight In On Federal Medicine: George W. Bush.
8. Recent News on Anthrax Vaccine.
9. Personal Statement.
10. Military and Academic Achievements Attained on Active Duty.
11. Character Statements.

12MAY04/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

X ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

Cover Sheet

b. DOCUMENT 2:

Written Presentation to Article 15 Proceedings

c. DOCUMENT 3:

Response To Administrative Discharge Action

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

~~My discharge was unjust because it was based on one incident only. My Military record was impeccable prior to my refusal of the anthrax vaccine.~~

~~While I was stationed overseas in United Arab Emirates the education I received on the anthrax vaccine was poor and coercive. It was based on the punishments that could occur if you denied the anthrax vaccine. This led me to do my own research on the medical aspect of the vaccine and I conclude to the findings you have in front of you today. I requested an investigation of the mandatory briefings to educate soldiers on the vaccine, these educational briefings in regards of the anthrax vaccine should have happened but never did. I was threatened and told by my Area Defense Council that I could be incarcerated for 5 years if found to be giving false statements in regards of the education I received. I decided to go through with the investigation since I had factual information backing my decision.~~

~~The Officer in Charge of the Anthrax Immunization program in the United Arab Emirates contradicted the facts of my statement. He stated that the briefings did happen even though more than one Airman contradicted his statements. At this point I asked to call in the witnesses from my squadron that were briefed with me and could state the facts themselves. They refused to call in these Airman, the Area Defense Council stated that their views did not apply to my case. I asked for another investigation on the statements of the UAE Officer's which contradicted mine. Two days later I was rushed through the discharge process. I did not even get a chance to get all separation medical work that needed to be done. The Area Defense Council told me that the VA will do any work that they could not get to because lack of time. At the VA Medical Center, I found out that this process is not standard procedure.~~

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

X THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)

20040208

b. SIGNATURE

UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 5TH BOMB WING (ACC)
MINOT AIR FORCE BASE, NORTH DAKOTA

FD2003-00521

NOV 26 2002


MEMORANDUM FOR AB [REDACTED], 5 SVS

FROM: 5 SVS/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 AFPD 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. You, having received a lawful command from Colonel [REDACTED] your superior commissioned officer, then known by you to be your superior commissioned officer, to receive the anthrax vaccination no later than 1600 hours on 26 Oct 02, or words to that effect, did, at Al Dhafra Air Base, United Arab Emirates, on or about 26 Oct 02, willfully disobey the same. You were punished under Article 15 of the UCMJ on 31 Oct 02 and this incident was added to your existing Unfavorable Information File (UIF). (Atch 3)
 - b. You, having received a lawful command from First Lieutenant [REDACTED] your superior commissioned officer, then known by you to be your superior commissioned officer, to receive the anthrax vaccination at 1400 hours, 19 Oct 02, or words to that effect, did, at Al Dhafra Air Base, United Arab Emirates, willfully disobey the same. You were punished under Article 15 of the UCMJ on 25 Oct 02 and an UIF was established. (Atch 4)
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 0900 hours, on 26 Nov 02, 2002. 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 0900 hours, on 3 Dec 02, 2002, 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 0800 hours, on 3 Dec 02, 2002 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.


1 Lt, USAF
Commander, 5th Services Squadron

Attachments:

1. Receipt of Letter of Notification
2. Statement of Understanding
3. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 4 Nov 02
4. AF FM 3070, Record of Nonjudicial Punishment Proceedings, 25 Oct 02