

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		
<div style="border: 1px dashed black; width: 100%; height: 100%;"></div>								X	
									X
									X
									X
									X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD					
A92.21 A93.01		A67.10		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		CASE NUMBER							
07 May 2004		FD-2004-00036							
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE									
<p>Case heard at Washington, D.C.</p> <p>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</p> <div style="border: 1px dashed black; width: 100%; height: 100%; margin-top: 20px;"></div>									
INDORSMENT				DATE: 5/7/2004					
TO:				FROM:					
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB TX 78150-4742				SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR. 3E WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002					

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2004-00036

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change his reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are 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 was discharged for minor disciplinary infractions. The records indicated the applicant received three Articles 15, two vacation actions, and two Letters of Reprimand for misconduct. His infractions included assault and battery of another airman resulting in bodily injury, provoking language and disrespect toward a senior ranking military member, failure to go, and failure to obey a lawful order. Applicant notes he was young and immature, and has not had any problems since his discharge. The Board noted applicant was age 21 at the time of his discharge, essentially the same age as other airmen who adhere to the standards expected of them; there was no evidence he did not know right from wrong. The DRB opined that through the unit's several administrative actions, the applicant had ample opportunities to change his negative behavior and was unwilling or unable to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issue 2 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well since his discharge and commends applicant on his desire to join the Air National Guard. These factors do not however pertain to his period of service and offer no evidence in mitigation or extenuation. No inequity or impropriety in his discharge was suggested or found in the course of the record review and the Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 A1C)

MISSING ENLISTMENT DOCUMENTS & MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Edwards AFB, CA on 30 Dec 94 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Jan 73. Enlmt Age: 19 8/12. Disch Age: 21 11/12. Educ: HS DIPL. AFQT: N/A. A-30, E-63, G-46, M-46. PAFSC: 2A631A - Aerospace Propulsion Apprentice. DAS: 11 Mar 93.

b. Prior Sv: (1) AFRes 11 Sep 92 - 25 Oct 92 (1 month 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Oct 92 for 4 yrs. Svd: 2 Yrs 2 Mo 5 Das, all AMS.

b. Grade Status: AB - 6 Dec 94 (Vacation of Article 15, 6 Dec 94)
 Amn - 7 Jul 94 (Vacation of Article 15, 31 Oct 94)
 A1C - 26 Feb 94
 Amn - 26 Apr 93

c. Time Lost: None.

d. Art 15's: (1) 15 Dec 94, Edwards AFB, CA - Article 86. You did, on or about 25 Nov 94 and on or about 26 Nov 94, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended forfeiture of \$415.00 pay (Remitted on 29 Dec 94), 20 days restriction, and 20 days extra duty (In excess of 15 days restriction and in excess of 15 days extra duty remitted on 29 Dec 94). (Appeal/Denied) (No mitigation)

(2) 6 Dec 94, Vacation, Edwards AFB, CA - Article 86. You did, on or about 25 Nov 94 and on or about 26 Nov 94, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB (See Recommendation for Discharge, 23 Dec 94, subparagraph i for punishment). (No appeal) (No mitigation)

(3) 31 Oct 94, Edwards AFB, CA - Article 92. You, having knowledge of a lawful order order issued by Major [REDACTED] to wit: LGR OI 90-4, dated 22 Feb 93, an order which it was your duty to obey, did, on or about

26 Sep 94 to on or about 12 Oct 94, fail to obey the same by wrongfully allowing your girlfriend to be in your dormitory while you were not present. Suspended reduction to AB, and 30 days additional duty.
(No appeal) (No mitigation)

(4) 31 Oct 94, Vacation, Edwards AFB, CA - Article 92. You, having knowledge of a lawful order issued by Major [REDACTED], to wit: LGR OI 90-4, dated 22 Feb 93, an order which it was your duty to obey, did, between on or about 26 Sep 94 to on or about 12 Oct 94, fail to obey the same by wrongfully allowing your girlfriend to be in your dormitory while you were not present. Reduction to Airman. (No appeal) (No mitigation)

(5) 7 Jul 94, Edwards AFB, CA - Article 86. You, did, on or about 3 May 94, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Airman. Forfeiture of \$100.00.
(No appeal) (No mitigation)

e. Additional: LOR, 5 APR 94 - Altercation with, and disrespect to supervisor.

LOR, 4 OCT 93 - Assault and battery.

f. CM: None.

g. Record of SV: 26 Oct 92 - 25 Jun 94 Edwards AFB 2 (Initial)REF
26 Jun 94 - 28 Oct 94 Edwards AFB 3 (Cmdr Dir)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (3) Mos (20) Das
TAMS: (2) Yrs (2) Mos (5) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Jan 04.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I am serously (sic) considering joining the Air National Guard in P.R. They request me to fix my discharge from General under Honorable Conditions to Honorable. My plans are to keep studying while I'm on the National Guard. I have not had any problems with the law since the date of my discharge and this was almost 10 years ago. I took my responsibilities for my past actions and I've learned from them. Now I'm a mature person with lots of desire to progress. When I join the Forces I was just a boy, now I'm a man asking for a second chance.

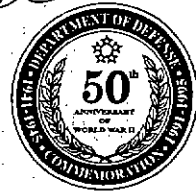
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ATCH
None.

9MAR04/ia

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 412TH TEST WING (AFMC)
EDWARDS AIR FORCE BASE, CALIFORNIA



23 Nov 94

MEMORANDUM FOR AIRMAN (E-2) [REDACTED]
412 CRS (AFMC)
Edwards AFB CA 93524-6325

FROM: 412 CRS/CC

SUBJECT: Notification Memorandum

I am recommending your discharge from the United States Air Force for Misconduct. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.46. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general (under honorable conditions).

My reasons for this action are:

a. Violation of Article 128 of the UCMJ (19 Sep 93). You committed Assault Consummated by a Battery while being involved in an altercation with another airman of another squadron at dormitory 2505. You received a Letter of Reprimand. (Atch 1.1).

b. Violation of Article 92 and 117 of the UCMJ (28 Mar 94). You were involved in an altercation with SrA [REDACTED] of your crew, in which you used speech that was provoking in nature and showed complete disregard for SrA [REDACTED] rank and position. You received a Letter of Reprimand. (Atch 1.2).

c. Violation of Article 86 of the UCMJ (3 May 94). You did, at Edwards Air Force Base, California, on or about 3 May 1994, without authority, fail to go, at the time prescribed, to your appointed place of duty, to wit: Anger Management Class, Building 6447. You received an Article 15. (Atch 1.3)

d. Violation of Article 92 of the UCMJ (26 Sep 94-12 Oct 94). You, having knowledge of a lawful order issued by Major [REDACTED] to wit: LGR Operating Instruction 90-4, dated 22 February 1993, an order which it was your duty to obey, did, at Edwards AFB, California, between on or about 26 September 1994 to on or about 12 October 1994, fail to obey the same by wrongfully allowing your girlfriend to be in your dormitory while you were not present. You received an Article 15 and a Vacation of Suspension of Article 15 given on 7 July 1994, you were reduced to the rank of Airman. (Atch 1.4 and 1.5)

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court Martial (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.

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 with Capt [redacted] Area Defense Counsel, building 6002, on 23 November 1994 at 0830 hrs. You may consult civilian counsel at your own expense.

You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 30 Nov 94 unless you request and receive an extension for good cause shown. I will forward your statements to the separation authority.

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.

You have been scheduled for a medical examination. You must report to the Physical Examination Section, Flight Surgeon's Office, Building 3925, at 0800 hrs on 28 Nov 94 for the examination. You should not eat for fourteen (14) hours prior to your examination. If you wear glasses you must take them with you. If you use contacts, do not use them for 3 days prior to the examination, and take them with you to the examination.

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; it is located in the orderly room.

Execute the attached acknowledgment and return it to me immediately.

[Redacted signature block]

[Redacted name] Maj, USAF
Commander

2 Attachments:

- 1. Supporting Documents
 - 1.1 Letter of Reprimand
 - 1.2 Letter of Reprimand
 - 1.3 Article 15
 - 1.4 Article 15
 - 1.5 Vacation of Article 15
- 2. Receipt of Notification Memorandum