

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██	GRADE AMN	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 A94.05	INDEX NUMBER A67.50	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 12 May 2004	CASE NUMBER FD-2004-00059			

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 OF RECORDER ██	SIGNATURE OF BOARD PRESIDENT <i>[Signature]</i>
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INDORSEMENT		DATE: 5/12/2004
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-2004-00059

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 and he would like his GI Bill benefits. The records indicated the applicant received two Article 15s, a Vacation action under the UCMJ and two Letters of Reprimand for unauthorized use of a government computer, financial irresponsibility, failure to pay is government credit card and for dereliction in the performance of his duties. 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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]
[REDACTED]

(Former AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Mountain Home AFB, ID on 22 Jul 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 4 May 77. Enlmt Age: 18 0/12. Disch Age: 25 2/12. Educ: HS DIPL. AFQT: N/A. A-89, E-61, G-59, M-41. PAFSC: 1C351 - Command Post Journeyman. DAS: 28 Sep 98.

b. Prior Sv: (1) AFRes 13 May 95 - 19 Jul 95 (2 months 7 days) (Inactive).

(2) Enlisted as AB 20 Jul 95 for 4 yrs. Extended 28 Apr 97 for 2 months. Svd: 3 yrs 0 months 9 days, all AMS. AMN - 20 Jan 96. A1C - 20 Nov 96. SrA - 20 Jul 98. EPRs: 4,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 30 Jul 98 for 6 yrs. Svd: 3 Yrs 11 Mo 22 Das, all AMS.

b. Grade Status: AMN - 30 May 02 (Article 15, 30 May 02)
A1C - 22 Jun 01 (Vacation of Article 15, 13 Nov 01)

c. Time Lost: None.

d. Art 15's: (1) 30 May 02, Mountain Home AFB, ID - Article 92. You, having knowledge of a lawful order issued by Lt Col [REDACTED], to wit: to not drive on Mountain Home AFB except from the front gate to the hospital, commissary, BX, and shoppette, dated 26 Feb 02, an order which it was your duty to obey, did, on or about 20 May 02, fail to obey the same by wrongfully driving to the community activities center and the base library. Reduction to Airman. (Appeal/Denied) (No mitigation)

(2) 13 Nov 01, Vacation, Mountain Home AFB, ID - Article 92. You, who knew of your duties, on or about 5 Oct 01, were derelict in the performance of those duties in that you willfully failed to refrain from driving while not having a valid state driver's license, as it was your duty to do. Article 92. You, who knew of your duties, on or about 23 Oct 00, were derelict in the performance of those duties in that you willfully failed to appear in court, as it was your duty to do. Reduction to A1C.

(No appeal) (No mitigation)

(3) 22 Jun 01, Mountain Home AFB, ID - Article 92. You, who knew of your duties, between on or about 1 Jan 01 and on or about 14 Jun 01, were derelict in the performance of those duties in that you willfully failed to pay your Bank of America Government Travel Card in full upon receipt, as it was your duty to do. Suspended reduction to A1C, forfeiture of \$50.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 9 MAR 01 - Financial irresponsibility.
LOR, 3 MAR 00 - Unauthorized use of a government computer.

f. CM: None.

g. Record of SV: 20 Mar 98 - 06 Aug 98 Keflavik NAS 5 (CRO)
07 Aug 98 - 06 Aug 99 Mountain Home AFB 4 (Annual)
07 Aug 99 - 18 Apr 00 Mountain Home AFB 4 (CRO)
19 Apr 00 - 18 Apr 01 Mountain Home AFB 4 (Annual)

h. Awards & Decs: AFAM, NDSM W/1 DEV, AFTR, AFLSAR, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (7) Yrs (2) Mos (10) Das
TAMS: (7) Yrs (0) Mos (3) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 17 Jan 04.
(Change Discharge to Honorable)

Issue 1: I disagree with the type of discharge that I recieved (sic). I wish for records to be reviewed for an upgrade to Honorable. My College-Montgomery GI Bill benefits were greatly affected due to the type of discharge.

Issue 2: I was denied any Montgomery GI Bill College fund due to the 'General' discharge that I received. I saved my first four years of service under Honorable conditions and was informed that I would be still be (sic) able to get my Montgomery GI Bill because of my first enlistment. I wish to be eligible for the GI Bill.

ATCH
None.

16MAR04/ia



FD 2004-0005 Y

**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 366TH SUPPORT GROUP (ACC)
MOUNTAIN HOME AIR FORCE BASE, IDAHO**

MEMORANDUM FOR Amn [REDACTED]

25 Jun 02

FROM: 366 MSS/CC

SUBJECT: Notification Memorandum--Board Hearing

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct. The authority for this action is AFPD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.50.2. If my recommendation is approved, your service can be characterized as honorable, general, or under other than honorable conditions (UOTHC). I am recommending your service be characterized as general. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 20 May 02, you disobeyed an order, issued by Lt Col [REDACTED] to not drive on Mountain Home Air Force Base, except from the front gate to the hospital, commissary, BX, and shoppette. As a result, you received an Article 15 on 23 May 02. (Tab 1, Atch 1).

b. On or about 5 October 2001 and on or about 23 October 2001, you were derelict in the performance of your duties by driving without a license and failing to appear in court. As a result, you received an Article 15 vacation action on 7 Nov 01. (Tab 1, Atch 2).

c. On or about 1 January 2001 and on or about 14 June 2001, you were derelict in the performance of your duties by failing to pay your Bank of America bill. As a result, you received an Article 15 on 18 Jun 01. (Tab 1, Atch 3).

d. On or about 3 March 2001 investigation disclosed you were four months delinquent on your Bank of America bill. Further, your payment by check was returned for non-sufficient funds. As a result, you received an LOR on 9 Mar 01. (Tab 1, Atch 4).

e. On or about 30 December 1999, you used a government computer to gain access to unauthorized Internet sites. As a result, you received a Letter of Reprimand (LOR) on 3 Mar 00. (Tab 1, Atch 5).

3. This action could result in your separation with an under other than honorable conditions (UOTHC) discharge. The commander exercising SPCM jurisdiction or 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. Any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to:

a. Consult legal counsel.

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- b. Present your case to an administrative discharge board.
 - c. Be represented by legal counsel at a board hearing.
 - d. Submit statements on your own behalf in addition to, or in lieu of, the board hearing.
 - e. Waive any of 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 Examination Section at the hospital on Mountain Home AFB. Your scheduled medical examination is on 01 day, July 02 at 1400 hours. You must be in uniform. If you wear glasses, wear them to the scheduled examination.
6. Military legal counsel has been obtained to assist you. I made an appointment for you to consult with the Area Defense Counsel, at 0930 hours on 25th day, June 02 at building 512. 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, 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 on 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 your 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.
10. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).
11. Execute the attached acknowledgment and return it to me immediately.



Maj, USAF
Commander, 366th Mission Support Squadron

6 Attachments:

1. Art 15, dtd 23 May 02
2. Art 15 Vacation, dtd 7 Nov 01
3. Art 15, dtd 18 Jun 01
4. LOR, dtd 9 Mar 01
5. LOR, dtd 3 March 00