

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	
NAME OF COUNSEL AND OR ORGANIZATION			
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 18 May 2004	CASE NUMBER FD-2004-00075	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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

Handwritten signature

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INDORSEMENT		DATE: 5/18/2004
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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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00075

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

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, two Letters of Reprimand, one Letter of Counseling, and several violation letters while in Correctional Custody. 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 AMN)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Dyess AFB, TX on 23 Nov 93 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for an Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 18 Oct 73. Enlmt Age: 19 1/12. Disch Age: 20 1/12. Educ: HS DIPL. AFQT: N/A. A-83, E-34, G-37, M-17. PAFSC: 3A031 - Information Management Apprentice. DAS: 8 Jun 93.

b. Prior Sv: (1) AFRes 15 Dec 92 - 28 Mar 93 (3 months 14 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 29 Mar 93 for 4 yrs. Svd: 0 Yrs 7 Mo 26 Das, all AMS.

b. Grade Status: AB - 2 Nov 93 (Article 15, 2 Nov 93)
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 2 Nov 93, Dyess AFB, TX - Article 92. You, having knowledge of a lawful order issued by Major [REDACTED], your commander, not to communicate with [REDACTED], an order which it was your duty to obey, did, on or about 23 Oct 93, fail to obey the same by communicating with [REDACTED]. Reduction to AB, and 30 days correctional custody (in excess of 23 days remitted, 12 Nov 93). (No appeal) (No mitigation)

e. Additional: The following 8 infractions are listed on Specific Rules Violation Letter, 12 NOV 93, committed while in Correctional Custody:

- 6-11 NOV 93 - Failure to maintain standards.
- 10 NOV 93 - Failure to follow orders of supervisory personnel.
- 09 NOV 93 - Failure to ask permission to cross red line.
- 08 NOV 93 - Failed to shave.
- 7-10 NOV 93 - Failed to maintain the position of attention when addressing an NCO.
- 07 NOV 93 - Failed to call room to attention.
- 06 NOV 93 - Failed to request permission to speak.
- 05 NOV 93 - Failed to have the proper clothing items when inprocessing.

LOR, 12 OCT 93 - Having a female minor residing in

dormitory room.

LOR, 29 SEP 93 - Consuming alcoholic beverages under age.
 RIC, 03 AUG 93 - Failure to report to work.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (0) Yrs (11) Mos (8) Das
 TAMS: (0) Yrs (7) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 13 Feb 04.

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

Issue 1: I am requesting a change on my discharge and RE-Entry code of the Air Force, so I may continue my process in joining the United States Army Reserve in San Antonio, Texas. The process has stopped due to the code listed on my DD214 (Item 27). It was told to me that the code has to be upgraded so I my (sic) continue my process in rejoining the Military.

Issue 2: The discharge is improper because of a situation that I could not control. In the winter of 1993. A fellow Airman and myself, were involved in a disagreement, soon after that I was attacked by him. I had to protect myself. Our commander was called to handle the situation. Our commander told us that we were barred form (sic) any activities, and that we must remain in our dorm rooms with no contact with each other until it was time for him to meet with both of us. On the same night, my fellow Airman came to my room to apologize for what he had done. I told him that we were not to speak to one another, under the direct order given to us. On the next day, our commander met with both of us. My fellow Airman told the commander that he contacted me. Our commander reminded us that we disobeyed a direct order. I tried to explain to him that I obeyed the order. He disagreed.

Issue 3: Please accept my request to change my RE-Entry code. I have taken the Armed Services vocational aptituded (sic) battery (ASVAB) test and my physical. Since my early separation from the United States Air Force in 1993, I have been a model citizen. I am very active in my community, as well as on my job. Also I am a devoted father. I always had the desire to serve my country in all the ways that I know how, just like my father who served in the Air Force for over 29 years.

ATCH

1. DD Form 214.

22MAR04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 7TH WING (ACC)
DYESS AIR FORCE BASE, TEXAS

FD 2004-00075

FROM: 7 TRNS/CC

15 Nov 93

SUBJ: Letter of Notification

TO: AB [REDACTED]

1. I am recommending your discharge from the United States Air Force for Misconduct - Minor Disciplinary Infractions. The authority for this action is AFR 39-10, Section H, 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).
2. My reasons for this action are:
 - a. You did, on 5 Nov 93, fail to have the proper clothing items when in-processed into correctional custody, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - b. You did, on 6 Nov 93, fail to request permission to speak while in correctional custody, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - c. You did, on 7 Nov 93, fail to call room to attention while in correction custody, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - d. You did, from on or about 7 Nov 93 to 10 Nov 93, fail to maintain the position of attention when addressing an NCO, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - e. You were, on 8 Nov 93, in violation of AFR 35-10 in that you failed to shave, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - f. You did, on 9 Nov 93, fail to request permission to cross a red line, as evidenced by Specific Rules Violation letter dated 12 Nov 93.
 - g. You did, on 10 Nov 93, fail to follow the order of supervisory personal, as evidenced by Specific Rules Violation letter dated 12 Nov 93.

h. You did, from on or about 6 Nov 93 to 11 Nov 93, fail to maintain standards, as evidenced by Specific Rules Violation letter dated 12 Nov 93.

i. You did, on 23 Oct 93, fail to obey a lawful order issued by Major [redacted], you commander, as evidenced by AF Form 3070 dated 2 Nov 93 and AF Form 1058 dated 3 Nov 93.

j. You did, on 24 Sep 93, have a female minor residing in your dormitory room after visiting hours and she was not accompanied by a legal guardian, as evidenced by LOR dated 12 Oct 93.

k. You did, on 26 Sep 93, consume an alcoholic beverage while under 21 years of age, as evidenced by LOR dated 29 Sep 93

l. You did, on 30 Jul 93, without authority fail to go at the time prescribed to your appointed place of duty as evidenced by AF Form 174 dated 30 Aug 93.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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.

3. 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, on 17 Nov 93 at 0830 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 19 Nov 93, 0800 hours, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination on 16 Nov 93, at 0700 hours, at the 7th Medical Group Hospital, Physical Exams Section.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the orderly room.

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



Major, USAF
Commander, 7 TRNS

- 2 Atch
- 1. Supporting Documents for Reasons for Discharge- AF Form 3212 dated 12 Nov 93; Specific Rules Violation ltr dated 12 Nov 93 w/attach ltr dated 11 Nov 93; Initial Counseling/Feedback ltr dated 9 Nov 93; AF Form 3070 dated 2 Nov 93; AF Form 1058 dated 3 Nov 93; LOR dated 12 Oct 93; LOR dated 29 Sep 93; and AF Form 174 dated 30 Aug 93.
- 2. Airman's Receipt of Letter of Notification