

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 1.2em; width: 100%;"></div>		GRADE	AFSN/SSAN <div style="background-color: black; height: 1.2em; width: 100%;"></div>																																			
TYPE GEN	PERSONAL APPEARANCE	<b>X</b>	RECORD REVIEW																																			
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ISSUES <b>A94.05</b>		INDEX NUMBER <b>A67.10</b>																																				
		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 <b>18 May 2004</b>		CASE NUMBER <b>FD-2004-00076</b>																																				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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="text-align: center; margin-top: 100px;"> </div>																																						
INDORSEMENT		DATE: 5/19/2004																																				
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-2004-00076**

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

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 and change of reason and authority for discharge are denied.

**ISSUE:** Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, three Letters of Reprimand, one Letter of Counseling, and a Vacation action under the UCMJ for various misconduct, including assault. 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. If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

**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 AB) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Ellsworth AFB, SD on 11 Oct 96 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 10 Sep 77. Enlmt Age: 17 4/12. Disch Age: 19 1/12. Educ: HS DIPL. AFQT: N/A. A-90, E-69, G-76, M-66. PAFSC: 3E231 - Pavement and Construction Equipment Apprentice. DAS: 9 Apr 96.

b. Prior Sv: (1) AFRes 27 Jan 95 - 3 Oct 95 (8 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 4 Oct 95 for 4 yrs. Svd: 1 Yrs 0 Mo 8 Das, all AMS.

b. Grade Status: AB - 2 Jul 96 (Vacation of Article 15, 7 Aug 96)

c. Time Lost: None.

d. Art 15's: (1) 7 Aug 96, Vacation, Ellsworth AFB, SD - Article 86. You did, on or about 29 Jul 96, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 2 Jul 96, Ellsworth AFB, SD - Article 86. You did, on or about 11 Jun 96, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to AB, and 15 days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 24 SEP 96 - Consuming alcohol underage.  
LOR, 16 SEP 96 - Assault.  
LOR, 29 MAY 96 - Late for duty.  
RIC, 20 MAY 96 - Disobeying orders to be on quarters and not available for standby.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (8) Mos (16) Das  
TAMS: (1) Yrs (0) Mos (8) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 25 Feb 04.

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

Issue 1: I had received an LOR dated 16 Sep 96 despite the fact that the Airman I had allegedly assaulted (sic) and I were not in an altercation of any sort.

Issue 2: Despite the fact that I was medically incapacitated, I received a Vacation Action for failure to go.

Issue 3: I believe I should have been placed on probation and rehabilitation prior to discharge.

Issue 4: I believe that I was singled out and denied an opportunity to better myself.

**ATCH**

1. Written Response to Vacation Action.
2. Response to Letter of Reprimand.

22MAR04/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 28TH SUPPORT GROUP (ACC)  
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

FD 2004-00076

MEMORANDUM FOR AB [REDACTED]

27 Sept 96


FROM: 28 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for pattern of misconduct, involving minor disciplinary infractions. The authority for this action is AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are:
  - a. On or about 22 Sep 96, you wrongfully consumed alcohol while under the state legal drinking age of 21. For your actions, you received a Letter of Reprimand (LOR) dated 24 Sep 96.
  - b. On or about 6 Aug 96, you assaulted Amn [REDACTED] during a physical altercation in your room at the Washington dormitory, Ellsworth AFB, South Dakota, to wit; you put a knife to the victim's throat. For your actions, you received a LOR dated 16 Sep 96. This LOR was placed in your Unfavorable Information File (UIF).
  - c. On or about 29 Jul 96, while under suspended punishment, you without authority, failed to go to your appointed place of duty. For your actions, that portion of your punishment that extended to suspended reduction to Airman Basic was vacated on 7 Aug 96.
  - d. On or about 11 Jun 96, you failed to report to work on time. For your actions, you received an Article 15 dated 2 Jul 96. This Article 15 was placed in your UIF.
  - e. On 22 May 96, you failed to report to work on time. For your actions, you received a LOR dated 29 May 96.
  - f. On 15 May 96, you were placed on quarters by Capt [REDACTED]. You failed to stay in your quarters and went downtown. For your actions, you received a Letter of Counseling dated 20 May 96.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising 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.
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, 5-2158, Bldg 2405 on 30 Sep 96 at 0830 hrs. You may consult civilian counsel at your own expense.

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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 3 Oct 96 unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. 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.
7. You have been scheduled for a medical examination. You must report to the Physical Exams Section of the Base Hospital at 0715 hrs on **1 Oct 96** for the examination. This is a mandatory appointment, and you must be in uniform. For the examination, fast for 14 hours prior to the examination, if you wear glasses, bring them, and if you wear contacts, remove them 24 hours prior to the examination.
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. Execute the attached acknowledgment and return it to me immediately.

  
2Lt, USAF  
Squadron Section Commander, 28 CES

Attachments:

1. Supporting documents
  - a. LOR - 24 Sep 96
  - b. LOR/UIF - 16 Sep 96
  - c. Vacation Action - 7 Aug 96
  - d. Art 15 - 2 Jul 96
  - e. LOR - 29 May 96
  - f. LOC - 20 May 96
2. Airman's Acknowledgment