

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>			GRADE AMN		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>	
TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE			RECORD REVIEW	
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No	<div style="background-color: black; width: 100%; height: 15px;"></div>			<div style="background-color: black; width: 100%; height: 15px;"></div>	
<input checked="" type="checkbox"/>						
MEMBER SITTING				VOTE OF THE BOARD		
				HON	GEN	UOTHC
				OTHER	DENY	
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ISSUES A94.06		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 24 Jun 2004		CASE NUMBER FD-2004-00091				

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 and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER <div style="background-color: black; width: 100%; height: 15px;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="background-color: black; width: 100%; height: 15px;"></div>
INDORSEMENT	
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

DATE: 6/29/2004

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00091

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) and exercised this right on 24 June 2004 with the assistance of counsel, [REDACTED].

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of Discharge to Honorable is approved.

Change of reason and authority for discharge and change of reenlistment code are denied.

The Board finds that neither the evidence of record or that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's discharge inequitable.

ISSUE:

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 two Records of Individual Counseling for misconduct. The majority of these incidents happened within a 4-month period. After a thorough and complete consideration of the information submitted by the applicant and contained in the records, the Board concluded there was sufficient mitigation to substantiate upgrading the members' discharge. However, because of the nature of the respondent's misconduct, the Board concluded that neither changing the reason and authority for the respondent's discharge nor changing his reenlistment code are warranted.

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. However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The board found mitigating circumstances surrounding the respondent's most serious misconduct. Specifically, the illness of the respondent's grandfather and a car accident the respondent was involved in shortly before the misconduct occurred. Both of these events were deemed significant enough to be taken into account when characterizing the respondent's service. The applicant's characterization should be changed to honorable under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]
[REDACTED]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Andrews AFB, MD on 22 Sep 95 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 31 Aug 75. Enlmt Age: 18 0/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-65, E-64, G-55, M-40. PAFSC: 4N031 - Medical Service Apprentice. DAS: 22 Jun 94.

b. Prior Sv: (1) AFRes 24 Sep 93 - 13 Oct 93 (20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 14 Oct 93 for 4 yrs. Svd: 1 Yrs 11 Mo 9 Das, all AMS.

b. Grade Status: AMN - 19 Jul 95 (Article 15, 19 Jul 95)
A1C - 14 Feb 95
AMN - 14 Apr 94

c. Time Lost: None.

d. Art 15's: (1) 19 Jul 95, Andrews AFB, MD - Article 92. You did, on or about 9 Jun 95, steal gasoline, military property, of a value of about \$10.00, the property of AAFES GAS-N-GO. Article 121. Furthermore, you, who knew of your duties, on or about 10 Jun 95, were derelict in the performance of those duties in that you willfully failed to remain on quarters, as it was your duty to do. Reduction to airman. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 19 JUL 95 - Failure to go.
LOR, 27 APR 95 - Failure to go.
LOC, 13 APR 95 - Failure to go.
RIC, 03 FEB 95 - Dereliction of duty.
RIC, 03 NOV 95 - Failure to go.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (1) Yrs (12) Mos (0) Das
TAMS: (1) Yrs (11) Mos (9) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 3 Mar 91.
(Change Discharge to Honorable)

Issue 1: Documents 1-6: Issues that caused my discharge.

Issue 2: Document 5: I was disciplined for a crime I did not comtt (sic) and instructed by legal counsel to take the Art 15 or I would go to jail for six years. My legal counsel was picked by my First Sergeant the very person who told me that he was getting rid of me. I did not have a (sic) option to pick representation. I did as I was instructed since I was not aware of my rights, very nieve and I was only nineteen years old. Refer to Document 7 also. Thank you.

ATCH

1. DD Form 214.
2. Two Records Of Individual Counselings.
3. Letter of Counseling, 13 Apr 95.
4. Letter of Reprimand, 27 Apr 95.
5. AF Form 3070.
6. Letter of Reprimand, 19 Jul 95.
7. Response to Article 15.
8. Two Letters of Recommendation.
9. Notification Memorandum.
10. Response to Discharge Notification.

SAPR/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 89TH AIRLIFT WING (AMC)

FD2004-00091

25 AUG 1995

MEMORANDUM FOR AIRMAN [REDACTED]

FROM: 89 MDOS/CC
1050 W. Perimeter Road, Suite A1-6
Andrews AFB, Maryland 20762-5000

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as an Honorable or a General Discharge. I am recommending that your service be characterized as a General (under honorable conditions) Discharge.

2. My reasons for this action are:

a. You did, at or near Andrews Air Force Base, Maryland, on or about 17 July 1995, without authority, fail to go, at the time prescribed, to your appointed place of duty, as evidenced by a Letter of Reprimand dated 19 July 1995.

b. You did, at or near Andrews Air Force Base, Maryland, on or about 9 June 1995, steal gasoline, of a value of about \$10.00, the property of AAFES GAS-N-GO, as evidenced by a Record of Nonjudicial Punishment (Article 15) dated 19 June 1995. Further, you, who knew of your duties at Andrews Air Force Base, Maryland, on or about 10 June 1995, were derelict in the performance of those duties in that you willfully failed to remain on quarters, as it was your duty to do, as evidenced by the same Record of Nonjudicial Punishment (Article 15) cited above.

c. You did, at or near Andrews Air Force Base, Maryland, on or about 25 April 1995, without authority, fail to go, at the time prescribed, to your appointed place of duty, as evidenced by a Letter of Reprimand dated 27 April 1995.

d. You did, at or near Andrews Air Force Base, Maryland, on or about 13 April 1995, without authority, fail to go, at the time prescribed, to your appointed place of duty, as evidenced by a Letter of Counseling dated 13 April 1995.

e. You were, at or near Andrews Air Force Base, Maryland, on or about 27 January 1995, derelict in the performance of your duties with respect to the performance of an inventory on a crash cart, as evidenced by an AF Form 174, Record of Individual Counseling, dated 3 February 1995.

f. You did, at or near Andrews Air Force Base, Maryland, on or about 31 October 1994 and on or about 2 November 1994, without authority, fail to go to scheduled EMT exams without notifying your supervisors, as evidenced by an AF Form 174, Record of Individual Counseling, dated 3 November 1994.

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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 [REDACTED] at Bldg 1430 Arnold Avenue at ext. 6624, at the Area Defense Counsel's office on 5 September 1995 at 1430 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 30 Aug 95 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. You must report to Bldg 1075, Flight Medicine Clinic, Malcolm Grow Medical Center at 0800 hours on 5 September 1995 for the examination.

7. 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 at the Publications Library.



Commander, 89th Medical Operations Squadron

2 Attachments:

1. Supporting Documents

- 1-1. LOR dtd 19 Jul 95
- 1-2. Article 15 incidents of 9-10 Jun 95
- 1-3. LOR 27 Apr 95
- 1-4. LOC dtd 13 Apr 95
- 1-5. ROC dtd 3 Feb 95
- 1-6. ROC dtd 3 Nov 94

2. Airman's Receipt of Notification Memorandum