

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██		GRADE A1C	AFSN/SSAN ██			
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
ISSUES A94.11 A93.33		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 06 Aug 2004		CASE NUMBER FD-2004-00108				
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.						
INDORSEMENT					DATE: 8/6/2004	
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-2004-00108

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.

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.

Issue 1. Applicant was discharged for minor disciplinary infractions. The records indicate applicant received four Letters of Reprimand, two Letters of Counseling, a Record of Individual Counseling and one Letter of Admonishment. His misconduct included making a false official statement, disrespect to a non-commissioned officer, a separate incident of insubordination to a noncommissioned officer, being late to work, repeat parking violations, not following directions, and not registering his vehicle on base. Applicant states he felt discriminated against at his final duty station because he had gold teeth which brought him under close scrutiny. He believes the situations he was involved in would have been handled differently had it been someone else. The records review failed to substantiate this contention. The misconduct did occur and it was within the chain of command's discretion to discipline member and to administratively discharge him for those multiple infractions. The DRB opined that through the unit's many 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. While the Board was sympathetic to the impact the loss of these benefits was having on the applicant, this is not a matter of inequity or impropriety that would warrant an upgrade.

Issue 3. Applicant infers that he should not be penalized indefinitely by his discharge. The DRB noted the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was the same age as the vast majority of first-term members who properly adhere to Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

If he can provide additional documented information to substantiate his issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he chooses to do so, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments and 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

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Patrick AFB, FL on 27 Aug 03. UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 2 Aug 82. Enlmt Age: 18 0/12. Disch Age: 21 0/12. Educ: HS DIPL. AFQT: N/A. A-65, E-39, G-41, M-33. PAFSC: 3P051 - Security Forces Journeyman. DAS: 29 Aug 02.

b. Prior Sv: (1) AFRes 18 Aug 00 - 27 Nov 00 (3 months 10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 28 Nov 00 for 4 yrs. Svd: 2 Yrs 9 Mo 0 Das, all AMS.

b. Grade Status: A1C - 28 Mar 02
Amn - 28 May 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: RIC, 06 JUL 03 - Failure to comply with directions.
LOR, 01 JUL 03 - Failure to properly register POV on base.
LOC, 03 FEB 03 - Pattern of misbehavior and problems.
LOR, 03 FEB 03 - Illegal parking.
LOR, 04 DEC 02 - Failure to obey an order and insubordination to an NCO.
LOA, 05 OCT 02 - Late for duty.
LOC, 12 SEP 02 - Disrespect to an NCO.
LOR, 09 JUL 02 - Making false official statements.

f. CM: None.

g. Record of SV: 28 Nov 00 - 27 Jul 02 Incirlik AB 3 (Initial)

h. Awards & Decs: AFTR, NDSM, AFOUA, AFOSSTR.

i. Stmt of Sv: TMS: (3) Yrs (0) Mos (10) Das
TAMS: (2) Yrs (9) Mos (0) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 22 Mar 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

17MAY04/ia

SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1: DISCRIMINATION

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I WASNT ABLE TO PURSUE A CAREER OF BEING A TRANSIT SECURITY OFFICER BECAUSE OF THE NARRATIVE REASON FOR DISCHARGE. I ALSO CANNOT RECEIVE MY G-1 BILL TO PURSUE GOING TO SCHOOL BECAUSE OF MY TYPE OF DISCHARGE THIS DISCHARGE IS NOT ALLOWING ME TO PURSUE A SUCCESSFUL LIFE. I HAVE ALSO ATTACHED SOME SITUATIONS WHICH I ENCOUNTERED AND WERE SOME OF THE REASONS I WAS DISCHARGED.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD)
2004/03/22

b. SIGNATURE


UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001

Dear Sir/Madaam,

I was an Airman in the United States Air Force at Patrick Air Force Base. I served my country for two years and nine months before being discharged. I only had 15 months remaining on my enlistment. I was handed a package for administrative discharge on 23 July 03 for minor disciplinary infractions. The discharge they have given me is a general (under honorable conditions). The narrative reason for discharge is misconduct. I feel that my entire time at Patrick Air Force Base I was being discriminated on and prejudice for the simple fact that I have gold teeth. There have also been repeated attempts to label me as a drug dealer. I felt singled out because of the simple fact that there are people in our squadron with article 15's and on the weight management program for more than a year. Might I add that I am not on the weight management program, nor do I have an article 15. For that reason I feel that I was given a fair opportunity. Majority of the time I was treated in an unprofessional manner. I also believe that some situations would have been handled differently if it was someone else. I have been to all the agencies such as Military Equal Opportunity (MEO) and Inspector General, to try and assist me, none seemed to be able to help out in my situations. There was never anyone within my squadron that wanted to give me any guidance or lead me in the right direction. Ever since I was stationed at Patrick AFB I was prejudice and talked down on by everyone before they could even get to know me and to find out what kind of person I was. I was treated like an outcast instead of being treated as if I was a part of a team. I have kept record of some of the things that I thought were discriminating and unprofessional. These are all things that have happened to me eleven months here at Patrick AFB.

On 9 Sept 02 I was called into Lt. [REDACTED] office. I wasn't clear on what he had wanted to see me for. I thought this because he's my education officer and isn't really in my chain of command. During a short conversation regarding my teeth I was told that they were "scary looking" and was asked were they a sign of me being a "gang banger". After it was apparent that my gold teeth weren't liked, I felt I wasn't going to be given a fair shot for the simple fact that those comments were coming from someone in the position of leadership.

On 11 Sept 02, my second week at Patrick AFB, I was called into MSgt [REDACTED] my First Sergeant. Just as the day before I wasn't told what was the reason for this meeting. I was then asked to open my mouth, that's when I figured out it was in reference to my gold teeth. It had already been cleared that there weren't any AFI's (Air Force Instructions) saying that I couldn't have gold teeth. After I had opened my mouth he began looking at my teeth. I was never given a legitimate reason for my mouth being inspected. I reported this incident along with the one on 9 Sept 02 to my Inspector

General's office and never heard of the out come or of anything pending.

In Oct 02, SSgt [REDACTED] my supervisor, invaded my privacy. Before I entered the doctor's office I had told my supervisor that I didn't feel comfortable with him joining me for my doctors appointment. Despite me voicing my concerns, he still felt compelled to enter the doctor's office while I was being examined. He did not just watch he was trying to persuade the doctor to diagnose me with what he thought would be right. He continuously interrupted conversations that my doctor and myself were having regarding my scalp condition. I reported this incident to the Inspector General and Military Equal Opportunity offices but yet no actions were taking against my supervisor. Again I never heard of the out come or of anything pending.

On 14 Dec 02 my vehicle was vandalized. There was approximately a six-inch scratch along the passenger side doors and they also managed to puncture my tire. This all occurred in the parking lot of which I worked at while I was on duty. Might I add that this was a day that everyone had to come into work and park his or her car in that same parking lot. I reported the incident and was told the next day that no kind of investigation would be done. MSgt [REDACTED] stated, "There's not sufficient evidence." I felt it should at least been looked at a little bit closer considering the fact that I had just got a supervisor change from SSgt [REDACTED] for personality conflict. I also felt that this could have been a race crime because snuff was poured onto my windshield. People spitting and scratching my vehicle continues till this day.

On 22 Jan 03, I was asked how could I afford such a vehicle by Lt. [REDACTED] He was referring to my 1999 Ford Expedition. He then stated that he's a Lieutenant and he couldn't afford such a vehicle. Again On 4 Mar 03 by Lt. [REDACTED] was addressed as "Mr. Bling Bling". He then proceeded to say "let me see those teeth", "show me that smile". On July 03 I was called into the superintendents office. After all was discussed I was than accused of being in a drug spot by Lt. [REDACTED] During the short examination he stated that he was "99.9 percent sure he seen my vehicle in that area". He also stated that he was doing a ride along with the Melbourne police department when he saw my vehicle. These accusations were all made after the fact that I had went to the Inspector General in reference to comments made about me on 9 Sept 02. I reported these particular incidents to Military Equal Opportunity. They couldn't get anything I presented to them under their purviews.

On 2 July 03, I was given orders to bring some uniforms up to the Law Enforcement Desk (LED) to prove that I had them and that they fit. I was told in an unprofessional manner by SSgt [REDACTED] to "get in the corner". I then stated that I wasn't comfortable taking my clothes off up on the LED. He continued with his unprofessional commands to get in the corner and to put on my uniforms. All his actions were done in the presence of other people who also thought he was way out of line. Also in July while trying to receive guidance from SSgt [REDACTED] he rudely hung up the phone on me. From a period of 5 July 03 to 15 July 03 I was posted on the flight line and nowhere else. Everyone else whom I worked with was getting rotated. As time went on it seemed as if

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no one was going to tell me what was going on. On 15 July 03 I was having a conversation with TSgt [redacted] my flight chief and asked him how come I was posted on the same post for the last 2 weeks. He replied that the General did not like my appearance. He then stated that it was our leadership that decided to have me posted out on the flight line every tour of duty. On 19 July 03 I was again talked upon unprofessionally by SSgt [redacted] but this time he didn't just talk to me unprofessionally, he tossed a piece of paper on the floor and said "next time read what u sign". Again his actions were done in the presence of others. I have asked on several occasions to have my supervisor changed but again they said no and attempted to twist things around to make it seem as if its my fault he's treating me in that way.

Those are the reasons why I believe I was discriminated on, prejudged, singled out, and not given a shot to progress in my career field. It seems because of my gold teeth I wasn't wanted in the military anymore. It is very difficult for me to prove that they had it out for me but that's what I believe has happened. I appreciate you taking the time to read this letter and hope I've come to the right place for some assistance.

Sincerely

[redacted signature]

A1C, USAF



DEPARTMENT OF THE AIR FORCE
45TH SPACE WING (AFSPC)

PD2004-00108

23 July 2003

MEMORANDUM FOR A1C [REDACTED]

FROM: 45 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is AFD 36-32 and AFI 36-3208, Section H, paragraph 5.49. If my recommendation is approved, your service will be characterized general (under honorable conditions).
2. My reasons for this action are:
 - a. Between 13 May 02 and 21 Jun 02, you made false official statements to three Senior NCOs, your supervisor, and your Flight Commander. For this misconduct, you received a Letter of Reprimand dtd 9 Jul 02 and UIF action. (Atch 1)
 - b. On 11 Sep 02, you displayed Insubordinate Conduct Toward a Noncommissioned Officer by making inappropriate comments and behavior toward the First Sergeant. You received a Letter of Counseling dtd 12 Sep 02. (Atch 2)
 - c. On 27 Sep 02, you failed to report to duty at the time prescribed and failed to adhere to Air Force dress and appearance standards. You received a verbal counseling. (Atch 3)
 - d. On 5 Oct 02, you failed to report to duty at the time prescribed. For this misconduct, you received a Letter of Admonishment dtd 5 Oct 02 (Atch 4)
 - e. On 4 Nov 02, you failed to obey the Orders of an Noncommissioned Officer and displayed Insubordinate Conduct Toward a Noncommissioned Officer. By failing to come to attention when told to do so and displaying inappropriate behavior toward a Senior Noncommissioned Officer. You received a Letter of Reprimand dtd 4 Dec 02 and UIF action. (Atch 5)
 - f. On 3 Feb 03, you Failed to Obey a Direct Order regarding repeated parking violations. You received a Letter of Reprimand dtd 3 Feb 03 and UIF action. (Atch 6)
 - g. On 3 Feb 03, you received a Letter of Counseling for several disciplinary infractions and UIF action. (Atch 7)
 - h. On 1 Jul 03, you failed to register your privately owned vehicle on Patrick Air Force Base. You received a Letter of Reprimand dtd 1 Jul 03. (Atch 8)

i. On 25 Jun 03, you had failed to adhere to Air Force dress and appearance standards by wearing a beret that was improperly sized. You received a Record of Counseling dtd 6 Jul 03. (Atch 9)

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] at Bldg 423, Suite N-115, Patrick AFB, Florida, on 23 July 2003 at 1500 hrs. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 28 July 2003/1200hrs 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 ^{45th eaw} 30th Medical Group, ~~Physical Exams~~ at 0730 hrs on 29 July 2003 for the examination. ~~Public Health~~

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 at the Area Defense Counsel's office.

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

[REDACTED]
Major, USAF
Commander, 45 SFS

9 Atchs:

1. LOR/UIF, dtd 9 Jul 02
2. LOC, dtd 12 Sep 02
3. MFR, dtd 27 Sep 02
4. LOA, dtd 5 Oct 02
5. LOR/UIF, dtd 4 Dec 02
6. LOC,/UIF dtd 3 Feb 03
7. LOR/UIF, dtd 3 Feb 03
8. LOR, dtd 1 Jul 03
9. LOC, dtd 6 Jul 03