

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> ████████████████████		<b>GRADE</b> A1C	<b>AFSN/SSAN</b> ████████████████			
<b>TYPE GEN</b>	<b>X</b>	<b>PERSONAL APPEARANCE</b>		<b>RECORD REVIEW</b>		
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>		
<b>YES</b>	<b>No</b>	████████████████████				
<b>X</b>						
<b>MEMBER SITTING</b>		<b>VOTE OF THE BOARD</b>				
		HON	GEN	UOTHC	OTHER	DENY
████████████████████		X				
████████████████████						X
████████████████████						X
████████████████████						X
████████████████████						X
<b>ISSUES</b>	A94.05	<b>INDEX NUMBER</b>	A67.10			
		<b>EXHIBITS SUBMITTED TO THE BOARD</b>				
		<b>1</b>	ORDER APPOINTING THE BOARD			
		<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE			
		<b>3</b>	LETTER OF NOTIFICATION			
		<b>4</b>	BRIEF OF PERSONNEL FILE			
		COUNSEL'S RELEASE TO THE BOARD				
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE				
		TAPE RECORDING OF PERSONAL APPEARANCE				
<b>HEARING DATE</b>		<b>CASE NUMBER</b>				
07 Sep 2004		FD-2004-00111				
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 and the right to submit an application to the AFBCMR						
<b>SIGNATURE OF RECORDER</b>			<b>SIGNATURE OF BOARD PRESIDENT</b>			
████████████████████			████████████████████			
<b>INDORSEMENT</b>			<b>DATE: 9/8/2004</b>			
<b>TO:</b>			<b>FROM:</b>			
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			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-2004-00111

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on September 7, 2004.

The following additional exhibits were submitted at the hearing:

- Exhibit 5: Applicant's contentions
- Exhibit 6: Character Statement from [REDACTED] dated 1 Sep 04
- Exhibit 7: Witness to restaurant incident from [REDACTED] undated
- Exhibit 8: Character statement from [REDACTED] dated 29 Aug 04
- Exhibit 9: MFR from [REDACTED] dated 30 Aug 04
- Exhibit 10: Character statement from [REDACTED] dated 15 Jun 04
- Exhibit 11: Character statement from [REDACTED] undated
- Exhibit 12: Notarized statement from [REDACTED] and [REDACTED] dated 31 Aug 04
- Exhibit 13: Copy of letter to Nellis AFB, 57 OSS Orderly Room dated 6 Aug 04
- Exhibit 14: Letter w/atch from [REDACTED] Nellis ADC Paralegal dated 31 Aug 04

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:** Applicant contends discharge was inequitable because it was too harsh and states that their were factual issues and equitable issues in regards to the general discharge. The records indicated the applicant received an Article 15, three Letters of Reprimand, one Record of Individual Counseling and a Vacation action under the UCMJ for misconduct. 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 DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing.

**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 A1C) (HGH SrA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Nellis AFB, NV on 28 Aug 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 10 Dec 78. Enlmt Age: 21 1/12. Disch Age: 24 8/12. Educ: HS DIPL. AFQT: N/A. A-81, E-73, G-80, M-76. PAFSC: 1C151 - Air Traffic Control Journeyman. DAS: 25 Sep 00.

b. Prior Sv: (1) AFRes 7 Feb 00 - 15 Mar 00 (1 month 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 15 Mar 00 for 6 yrs. Svd: 3 Yrs 5 Mo 13 Das, all AMS.

b. Grade Status: A1C - 5 Mar 03 (Vacation of Article 15, 18 Jun 03)  
 SrA - 28 Aug 02  
 A1C - 28 Apr 00

c. Time Lost: None.

d. Art 15's: (1) 18 Jun 03, Vacation, Nellis AFB, NV - Article 86. You did, between on or about 16 May 03 to on or about 17 May 03, without authority, go from your appointed place of duty. Reduction to A1C. (No appeal) (No mitigation)

(2) 7 Mar 03, Nellis, NV - Article 134. You, were, at or near Mandalay Bay Casino in Las Vegas, Nevada, on or about 20 Jan 03, disorderly, which conduct was of a nature to bring discredit upon the armed forces. Suspended reduction to A1C, forfeiture of \$250.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 09 JUL 03 - Uniform violation, disrespectful and confrontational towards an NCO.

LOR, 02 OCT 02 - Late for work.

RIC, 30 SEP 02 - Late for work.

LOR, 22 OCT 01 - Fraudulently presenting a form to an apartment complex manager and aggressive behavior.

f. CM: None.

g. Record of SV: 16 Mar 00 - 15 Nov 01 Nellis AFB 4 (Initial)  
16 Nov 01 - 15 Nov 02 Nellis AFB 4 (Annual)

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

i. Stmt of Sv: TMS: (3) Yrs (6) Mos (22) Das  
TAMS: (3) Yrs (5) Mos (13) 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.
2. Two Letters of Appreciation.

19MAY04/ia



FD 2004-00111

DEPARTMENT OF THE AIR FORCE  
57TH OPERATIONS SUPPORT SQUADRON (ACC)  
NELLIS AIR FORCE BASE, NEVADA

5 Aug 03

MEMORANDUM FOR [REDACTED]

FROM: 57 OSS/CC

SUBJECT: Notification Memorandum - Administrative Discharge AFI 36-3208

1. I am recommending you for discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and 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 17 Oct 01, you fraudulently presented a form to an apartment complex manager in order to regain possession of a \$70.00 deposit. For your actions, you received a Letter of Reprimand (LOR) on 22 Oct 01. To this LOR, on 22 Oct 01, you did not make an election to submit or not submit matters for consideration;

b. On or about 15 Sep 02 and on or about 27 Sep 02, you were 20 minutes late for work. For your actions, you received a Record of Individual Counseling (ROIC) on 30 Sep 02;

c. On or about 29 Sep 02, you failed to report to your place of duty at the time prescribed. For your actions, you received an LOR on 2 Oct 02. To this LOR, on 3 Oct 02, you elected not to submit matters for consideration;



d. You were, at or near the Mandalay Bay casino in Las Vegas, Nevada, on or about 20 Jan 03, disorderly, which conduct was of a nature to bring discredit upon the armed forces. For your actions, you received an Article 15 punishment consisting of a suspended reduction to the grade of airman first class, forfeiture of \$250.00 pay per month for 2 months, and a reprimand on 7 Mar 03;

e. Between on or about 16 May 03 to on or about 17 May 03, you left from your appointed place of duty without authority. For your actions, you received a vacation action on a suspended reduction to the grade of airman first class on 18 Jun 03;

f. On or about 12 Jun 03, you were disrespectful towards a noncommissioned officer. For your actions, you received an LOR on 9 Jul 03.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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 will probably be denied enlistment in any component of the Armed Forces.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel at Bldg 625 on 6 Aug 03 at 1000 hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf. **You have three (3) duty days from the date/time served to submit statements in your behalf.** Any statements you want the separation authority to consider must reach me by 8 Aug 03 at 1300 hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. In the event the commander exercising special court-martial jurisdiction or a higher authority approves your discharge, separations will out-process you. Your initial separations briefing is scheduled for 6 Aug 03 on 0800 hrs.
7. If you fail to consult or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.
8. You have been scheduled for a medical examination at the 99th Medical Group on 6 Aug 03 at 1300 hrs.
9. 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 Unit Orderly Room.
10. Execute the attached acknowledgment and return it to me immediately.

  
 USAF  
Commander

- 6 Attachments:
1. LOR, 22 Oct 01
  2. ROIC, 30 Sep 02
  3. LOR, 2 Oct 02
  4. Art 15, 7 Mar 03
  5. Art 15 Vacation Action, 18 Jun 03
  6. LOR, 9 Jul 03