

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AMN	AFSN/SSAN [REDACTED]
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

MEMBER SITTING	VOICE OF THE BOARD				
	HON	GEN	UO/HC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES	A92.37	INDEX NUMBER	A67.30	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	CASE NUMBER
01 Sep 2004	FD-2004-00122

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.

SIGNATURE OF RECORDING OFFICER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE 9/1/2004
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-2004-00122

GENERAL: The applicant appeals for upgrade of discharge to general, to change the reason and authority for her discharge, and to change her reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board 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 the discharge, and change of reenlistment code are 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.

ISSUES: Applicant was discharged for misconduct, commission of a serious offense. Member had an Article 15, a Letter of Reprimand, and a Letter of Counseling. These actions documented being late for work, missing a mandatory formation, and grand larceny by fraud of an amount between \$800.00 and \$1300.00 from Sears, for which she was arrested by local police. At the time of the discharge action, member consulted counsel and waived her right to submit a statement in her own behalf. The record reflects member and a civilian friend who was a Sears employee purposely conspired to credit monies to member's Discover Credit card account as if she had made a payment on the balance when in fact she had not provided the funds with which to make a payment. Although this conduct could have been tried in civilian court, it was also subject to trial by military court-martial and a punitive discharge. Yet, her chain of command chose to administer punishment via Article 15 instead. The Board found that applicant committed a serious offense that does not warrant a characterization of honorable, which is only appropriate when the member's service has been so meritorious that any other characterization would clearly be inappropriate. Applicant was age 22 when her misconduct occurred, and there is no evidence that she was immature and did not know right from wrong. The discharge regulations clearly gave her chain of command authority to recommend administratively discharging her based on unsuitability for further military service as a result of her serious misconduct. Facts and circumstances are different in each action and must be judged on a case-by-case basis. In doing so, a commander must consider the seriousness of the misconduct and how a member's retention might affect good order, discipline, and morale, not just the member's past record of service or rehabilitative potential. They must focus on conduct during the current enlistment, and also consider factors such as the member's age, length of service, grade, aptitude, and the standards of acceptable conduct and performance. The regulation provides for circumstances wherein a single incident of misconduct may provide the basis for characterizing service, and characterization less than honorable is warranted when the behavior constitutes a significant departure from standards expected of airmen. There is no evidence that the discharge was inequitable or improper. The Board finds the applicant's discharge to be appropriate and in accordance with Air Force Policy.

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.

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

[REDACTED]

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr MacDill AFB, FL on 24 Apr 01 UP AFI 36-3208, para 5.52.3 (Misconduct - Other Serious Offenses). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 18 Oct 78. Enlmt Age: 20 5/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-76, E-40, G-42, M-07. PAFSC: 3P031 - Security Forces Apprentice. DAS: 15 Sep 99.

b. Prior Sv: (1) AFRes 26 Mar 99 - 20 Apr 99 (26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 21 Apr 99 for 4 yrs. Svd: 2 Yrs 0 Mo 4 Das, all AMS.

b. Grade Status: Amn - 6 Mar 01 (Article 15, 6 Mar 01)
A1C - 21 Feb 00

c. Time Lost: None.

d. Art 15's: (1) 6 Mar 01, MacDill AFB, FL - Article 121. You did, at or near Tampa, Florida, between on or about 13 Oct 00 and 28 Oct 00 steal United States currency of a value of about \$1,300.00, the property of Sears, Roebuck, and Company. Reduction to Airman, 30 days extra duty, and 30 days restriction. (No appeal) (No mitigation)

e. Additional: (Examiner's Note: The following derogatory conduct is listed on the Recommendation for Discharge, but are missing from the file).

LOR, 01 DEC 00 - Failure to report for a mandatory formation.

LOC, 03 JUL 00 - Late for duty.

f. CM: None.

g. Record of SV: 21 Apr 99 - 31 Dec 00 MacDill AFB 4 (Initial)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (1) Mos (0) Das
TAMS: (2) Yrs (0) Mos (4) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 19 Jul 04.

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

Issue 1: I believe that an upgrade is in order because before they reached a verdict in the Florida Court my commander already found me guilty. I was discharged from the Air Force although I was never found guilty. I would like my character of service to be upgraded to honorable and my reentry code to be upgraded from a 2B so that I may be able to reenlist. Also, because I feel that a general discharge may hinder my employment prospects. Thank you for your time.

ATCH

1. DD Form 214.
2. AF Form 3070.

23JUL04/ia



DEPARTMENT OF THE AIR FORCE

6TH AIR MOBILITY WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA

FD 2004-00122

MEMORANDUM FOR AIRMAN [REDACTED]

APR 2 2001

FROM: 6 SFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a commission of a serious offense consisting of conduct prejudicial to good order and discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as an under honorable conditions (general).
2. My reasons for this action is on or about 13 Oct 2000, you stole about \$1,300.00 from Sears and Roebuck and Company. This incident was recorded on an Air Force Form 3070, Record of Nonjudicial Punishment Proceedings, dated 13 March 2001. (Tab B)
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 (SPCM) jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.
4. You have the right to consult counsel. Military counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] on 2 Apr 01 at 1000. 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 5 Apr 01 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 6th Medical Group Hospital - Physical Exams, at 1400 hours on 3 Apr 01.
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 the Orderly Room.
9. Execute the attached acknowledgment and return it to me immediately. [REDACTED]

Attachments:

- a. Respondent's Acknowledgment
- b. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 13 March 2001

AMC - GLOBAL REACH FOR AMERICA