

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]			
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					
	<input checked="" type="checkbox"/>					
MEMBER SITTING		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
[REDACTED]		<input checked="" type="checkbox"/>				
		<input checked="" type="checkbox"/>				
		<input checked="" type="checkbox"/>				
						<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/>				
ISSUES	A94.06	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	14 Sep 2004	CASE NUMBER	FD-2004-00127			
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: 9/15/2004		
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-2004-00127

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFDB, MD on September 14, 2004. The following witness also testified on the applicant's behalf: [REDACTED] applicant's friend.

The following additional exhibits were submitted at the hearing:

Exhibit 5: A Family Advocacy packet with 108 pages.

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

FINDINGS: The Board grants partial relief. The Upgrade of discharge to honorable is approved. However, the reason and authority for discharge, and change of reenlistment code are denied.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, and two Letters of Reprimand for misconduct, all relating to problems she was experiencing with her ex-husband. It was clear to all the Board members that the applicant was a victim of domestic abuse, the extenuating legal, financial, and emotional circumstances of which directly affected her capability to serve. The DRB noted that the applicant's exceptional job performance. Further, the Board took into consideration the apparent friendly relationship between the applicant's ex-husband and her First Sergeant. While the Board does not condone the applicant's misconduct, the board found the characterization of the discharge received by the applicant to be inequitable.

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 and should be changed 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]
(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Shaw AFB, SC on 2 May 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 15 Jul 82. Enlmt Age: 17 11/12. Disch Age: 19 9/12. Educ: HS DIPL. AFQT: N/A. A-74, E-50, G-62, M-40. PAFSC: 2A732 - Nondestructive Inspection Technician. DAS: 22 Dec 00.

b. Prior Sv: (1) AFRes 30 Jun 00 - 18 Jul 00 (19 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Jul 00 for 4 yrs. Svd: 1 Yrs 9 Mo 14 Das, all AMS.

b. Grade Status: AB - 25 Mar 02 (Article 15, 25 Mar 02)
A1C - 1 Sep 00

c. Time Lost: None.

d. Art 15's: (1) 25 Mar 02, Shaw AFB, SC - Article 92. You having knowledge of a lawful order issued by [REDACTED], to not have contact with [REDACTED] an order which it was your duty to obey, did, on divers occasions between on or about 28 Feb 02 and on or about 7 Mar 02, fail to obey the same by wrongfully having contact with [REDACTED]. Reduction to AB. (No appeal) (No mitigation)

(2) 4 Mar 02, Shaw AFB, SC - Article 107. You did, on or about 12 Feb 02, with intent to deceive, make to [REDACTED] an official statement, to wit: that you did not leave Shaw AFB on 9 Feb 02, which statement was totally false, and was then known by you to be so false. Suspended reduction to Airman. Forfeiture of \$150.00 pay per month for 2 months, and 14 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 22 JAN 02 - Failure to go.
LOR, 14 DEC 01 - Violation of no-contact order, and violation of a physical profile.

f. CM: None.

g. Record of SV: 19 Jul 00 - 18 Mar 02 Shaw AFB 2 (Initial)REF

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (1) Yrs (10) Mos (2) Das
TAMS: (1) Yrs (9) Mos (14) Das

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

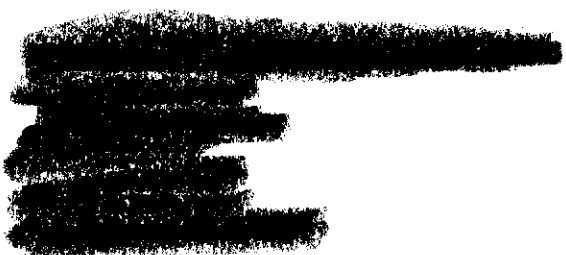
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. AF Form 3070.
4. LOR, 14 Dec 01.
5. Memo For Record, 5 Feb 02.
6. Memo For Record, 28 Feb 02.
7. AF Form 1058.
8. Memo For Record, 21 Feb 02.
9. Article 15 Action Memo, 27 Feb 02.

4MAY04/ia



04/19/2004

United States Air Force

To whom it may concern,

I am writing in regards to my discharge from the United States Air Force. Through this letter I will inform you on my time served as an active duty member of the Air Force, why I was discharged, and, how I believe my discharge was unjust.

I became an active duty service member, in the United States Air Force, on July 19, 2003. I chose the Air Force over the other branches of service because it is the best branch that fits me, and the branch I thought I could give the most to. I had and still have dreams of fighting to keep my country free for my children and all generation to follow.

On December 12, 2000 I graduated technical training from Pensacola Naval Air Station, Where I studied Nondestructive Inspection. I had orders to report to Shaw AFB, SC. Upon my arrival to Shaw I immediately started asking questions to further my knowledge of NDI. On March 31, 2001 I married my high school sweetheart, against the will of my entire shop. 2 months later I volunteered to go TDY to Prince Sultan Air Base. I was thrilled! I would finally have my first over seas experience!

I arrived at PSAB in June 2001. I was really looking forward to serving our country in a real world mission. Two weeks had past since I arrived, when I received an email from my ex-husband telling me he had been dating a friend of mine, wrecked my car, quite his job, and spent all our money. This was not the news one wants or needs to hear when they are so far from home. With the help of my shop chief and friends I had made, I managed to get through my tour and back home to settle my problems.

Upon my return home my ex husband and I began arguing uncontrollably and he continued to put his hands on me. A week after my return I moved out of my home, and went to my first shirt with the problem. No action was taken until we had been separated for two months. In November of 2001, a no contact order was issued between my ex husband and myself.

On December 11, 2001 I broke this order. I took my EOC early that morning, my shop chief gave me the option of going home and coming back in to work swings, I accepted his offer. Before leaving my shop I spoke to my supervisor [redacted]. I asked him if he could escort me to my ex husbands mothers house to serve him the divorce papers. He informed me that he was busy that day, but I could go ahead and take them over to him as long as I did nothing else. I did as he said, however, when I got to his mothers, he wanted to talk and try to work things out. When I told him we were getting divorced and there was nothing he could do to change my mind, he smacked me around and pulled a gun out. During his rage his mother called and he told her the only way I was leaving her house with signed divorce papers was in a body bag. He then called his girlfriend and told he that this is what would happen to her if she ever tried to leave him. When he went to the bathroom I ran out the side door, just barely making it in my car and getting the doors locked before he came chasing after me. I drove back to the base where I spoke with my supervisor and first shirt. They sent me to the Lexington police department with [redacted]. There I filed a report and charges were brought on my ex husband. The next morning at work I received a LOR for breaking the no contact or and a UFF [redacted] denied ever telling me to go by myself.

In January 2002, I was getting followed and harassed by my former spouse. I reported this to my first shirt and the SP's. I was told his id card would be taken and a BOLO would be put up at all the gates. This would keep him off base and away from me. This plan failed, he still managed to get on base, I later found out that his id card had not yet been taken, and there was no BOLO out against him. By this time I was enrolled in the Family Advocacy. This was action taken by the Air Force due to bruising on my body found by a doctor during a physical. My counselor [REDACTED] placed me in a battered women's shelter. On my way to work one morning from the shelter I saw my ex husband behind me. So I speed up he was then driving beside me and trying to run me off the road, and once again flashed a gun at me. I was hysterical; I drove as fast as I could to [REDACTED] office and reported the incident She placed me in the hospital at Fort Jackson until they could find a way to keep me safe. I stayed in the hospital for two weeks. Upon my release I was restricted to base for my safety.

In the middle of February I learned that my ex husband had been taken into custody for the charges filed in December. To celebrate my friends took me out to a Marti Gras party. The Monday following I was questioned by [REDACTED] about leaving base. This was not an interrogation. My shop chief was at the squadron and the first shirt asked to speak with us real quick. While in his office he casually asked what I had done that weekend. Specifically had I left the base. I told him no at first. Later that day we were called back to his office where I was told I was facing an article 15. I went to the ADC and spoke to [REDACTED]. She informed me that the article 15 was not lawful for two reasons. Restriction to base is used as a punishment under a court marshal or an article 15, and no other reason, and I was never read my rights or told I was being interrogated for a crime. The statement I made was in casual conversation. I went back to my first shirt and told him that I had went to a party that weekend, and let him know what the ADC had told me. The article 15 for leaving base was thrown out, and in its place I received an article 15 for making a false official statement. I appealed this action and was denied with no explanation.

In the middle of March I went to Myrtle Beach with some friends. Upon returning the next day I was informed that my ex husband has been on base looking for me. When I got to my dorm room, I had two Ice House beer bottles on my windowsill and my room had been trashed. I reported this to the SP's. They located him at [REDACTED] house and brought them both in for questioning. [REDACTED] admitted to bringing my ex husband on base and to my room. They served my ex husband with a barment letter, which was supposed to be issued months before, and released him. In turn I received an article 15 based on an allegation that I had been with another man, as well as a statement from [REDACTED] that I had made contact with my ex-husband from his house on numerous occasions and had been with him on at least one occasion. Both of these allegations were false. It was a big group of us that went to the beach, both guys and girls, but I wasn't "with" any of them. I also had not made contact with my former spouse.

Those allegations were career ending for me. I wanted to appeal that article as well, but was told that " You have the right to appeal, but it too will get denied." By then it was apparent that no matter what I did [REDACTED] would find any and every reason to get me discharged, and I was tired of fighting and getting nowhere. That's when I decided my best bet was to fight it from the outside. Which I have been doing since my discharge.

I joined the Air Force for a number of different reasons. The first and most important is my love for this great country. My father was in the Navy, he told me the best way to express my devotion to the United States was to join the military, so I joined the Air Force. I enlisted for 6 years and became apart of a great organization.

When I enlisted I chose Non - Destructive Inspection (NDI) as my job. I like to be part of the action, and NDI has a lot of power over the flight line. Some of my duties and responsibilities were to perform select test methods to identify discontinuities and flaws in component parts. As well as integrity of pressurized systems associated with missiles, aircraft, and AGE equipment. This was done with magnetic particle, ultrasonic, eddy current, radiography, optical and liquid penetrant. I also used a spectrometric unit to analyze engine oil for metal, and was in one of the first shops to use Magnetic Chip Detector's (MCD) to detect metal fragments on the magnetic chip placed in the

engine. Not only did I know and love my job, I was great at it! I continued performing each and every inspection to the best of my ability, up until I was told it was time for me to turn in my uniforms and be escorted off base. My last week in my shop I stopped an aircraft from passing phase due to excessive gouges on the finger braces. This would have been over looked and would have been catastrophic had it not been for NDI.

Being a part of the great team was, and still is my dream. I made mistakes, I did knowingly break a no contact order between my former spouse and I. I take full responsibility for this action. However this was done only once, I was punished twice. I can accept the punishment that goes with that wrongdoing. However I don't believe either of the article 15's I received was lawful. I was punished with two article 15's, fines, extra duty, reduction in rank, and discharged. All for crimes I did not commit. I am aware it was wrong for me to lye to [REDACTED] but I was punished for making a false official statement, the statement was clearly not official. I also find it very bothersome that one can be punished under the UCMJ when the only evidence given is an allegation made by one person. Especially being that person is a friend of the one man trying the hardest to ruin my career.

I pray you will take the time to review my case to the fullest. When you do I am confident you will find my discharge was unjust. All I am asking is for this error to be corrected. I would like this discharge to be removed from my record, and my enlistment be reinstated. I am aware that if your finding is in fact that my discharge was unjust, I am entitled to lost time in service and lost pay as well. These extra compensations would be greatly appreciated, but being able to serve in the United States Air Force is compensation enough.

Thank you for your time

Sincerely,
[REDACTED]



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

15 Apr 02

MEMORANDUM FOR [REDACTED]

FROM: 20 EMS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct – minor disciplinary infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, paragraph 5.49. If my recommendation is approved, your discharge will be characterized as honorable or general. I recommend your discharge be characterized as general.

2. My reasons for this action are:

a. Between on or about 28 Feb 02 and on or about 7 Mar 02, on divers occasions, you disobeyed a lawful order by having contact with your estranged spouse, [REDACTED]. For these acts of misconduct, you received Article 15 nonjudicial punishment action on 25 Mar 02. Punishment consisted of a reduction to the grade of Airman Basic. Additionally, the Article 15 nonjudicial punishment action was placed in your previously established unfavorable information file (UIF).

b. On or about 12 Feb 02, you made a false official statement to a senior noncommissioned officer by stating that you had not left Shaw AFB on 9 Feb 02, which statement was then known by you to be totally false. For this act of misconduct, you received Article 15 nonjudicial punishment action on 4 Mar 02. Punishment consisted of a suspended reduction to the grade of Airman, forfeiture of \$150.00 pay per month for 2 months, and 14 days extra duty. Additionally, the Article 15 nonjudicial punishment action was placed in your previously established UIF.

c. On or about 14 Jan 02, you failed to report for duty at the prescribed time. For this act of misconduct, you received a letter of reprimand (LOR), dated 22 Jan 02.

d. On or about 11 Dec 01, you violated a lawful order by having contact with your estranged spouse, [REDACTED]. For this act of misconduct, you received an LOR, dated 14 Dec 01. Additionally, this LOR was used to establish a UIF on 27 Dec 01.

The documents listed above are located under Tab 4.

3. In addition to the above reasons for discharge, your file also reflects two memoranda for record (MFR), dated 12 Mar 02 and 14 Nov 01. The 14 Nov 01 MFR documents a no contact order given to you for [REDACTED] individual whom your estranged spouse, [REDACTED] had a physical altercation with because he believed you were having an adulterous relationship with [REDACTED]. The 12 Mar 02 MFR documents a no contact order given to you for [REDACTED] an individual with whom you were allegedly having another adulterous affair. You were also ordered to have no contact with your spouse, [REDACTED]. These documents are located under Tab 4a.

4. 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

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service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably not be allowed to enlist in any other branch of the armed forces.

5. 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], Area Defense Counsel, 895-9530, on ___ Apr 02, at ___ hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three days after receipt of the notification memorandum, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You must report to the Shaw AFB Hospital, Physical Examinations Section, between the hours of 1100 - 1300, Mon - Thurs, for a medical examination.

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 the orderly room.

10. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge, unless the reason is homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

11. Execute the attached acknowledgment, and return it to me immediately.

[Redacted Signature]

USAF

Commander

8 Attachments:

- 1. AF Form 3070, dated 25 Mar 02 w/Atch (Tab 4)
- 2. AF Form 3070, dated 4 Mar 02 w/Atchs (Tab 4)
- 3. LOR, dated 22 Jan 02 (Tab 4)
- 4. LOR, dated 14 Dec 01 (Tab 4)
- 5. AF Form 1058, dated 27 Dec 01 (Tab 4)
- 6. MFR, dated 12 Mar 02 (Tab 4a)
- 7. MFR, dated 14 Nov 01 (Tab 4a)
- 8. Respondent's Receipt of Notification (Tab 5)