

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

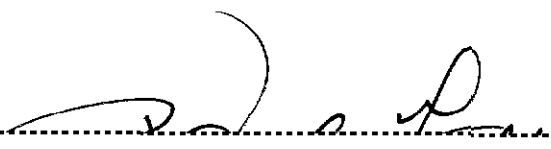
ISSUES A94.11 A92.15 A92.21	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
		4 BRIEF OF PERSONNEL FILE
		COUNSEL'S RELEASE TO THE BOARD
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE

HEARING DATE 28 Jul 2004	CASE NUMBER FD-2004-00134	
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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 7/28/2004
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, 4E WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002	

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00134

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.

ISSUES:

Issue 1. Applicant infers the discharge was inequitable and too harsh because it was based only on off-duty incidents. The records indicated the applicant received two Articles 15, a vacation of suspended punishment, and had an Unfavorable Information File for misconduct, consisting of multiple instances of failing to pay his creditors and for failure to go. In each instance member replied to the disciplinary action with an apology, admitting he had no excuse for his actions. He was also sent to the Personal Financial Management Program. The DRB noted that failure to pay just debts is a criminal offense, and opined that through the unit's 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 and the characterization of the discharge received by the applicant was appropriate.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service, and noted his supervisors often commended him for his work. The DRB took note of the applicant's duty performance as documented by his performance report and other accomplishments, but found the seriousness of applicant's misconduct offset any positive aspects of his duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

Issue 3. Applicant felt his discharge was unfair because he was told the unit first sergeant was making an example of him. The Board could find no evidence of this contention in the records review and finds this issue without merit.

Issue 4. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. Because applicant did not receive an Honorable discharge, he cannot receive educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issues 5 and 6 apply to the applicant's post-service activities. Applicant infers that he should not be penalized indefinitely for mistakes he made when young. The DRB was pleased to see that the applicant is doing well, has been better managing his finances and paying off his debts, and is going to college. However, this does not constitute an inequity or impropriety in his discharge. The Board concluded the applicant's misconduct appropriately characterized his term of service.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch from Offutt AFB, NE on 28 Feb 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 29 Mar 79. Enlmt Age: 20 3/12. Disch Age: 22 10/12. Educ: HS DIPL. AFQT: N/A. A-65, E-68, G-62, M-57. PAFSC: 2A137 - Electronic Warfare Systems Apprentice. DAS: 9 Jun 00.

b. Prior Sv: (1) AFRes 29 Jun 99 - 21 Sep 99 (2 months 24 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 22 Sep 99 for 6 yrs. Svd: 2 Yrs 5 Mo 7 Das, all AMS.

b. Grade Status: AMN - 24 Oct 01 (Vacation of Article 15, 21 Dec 01)
A1C - 05 Nov 99

c. Time Lost: None.

d. Art 15's: (1) 05 Feb 02, Offutt AFB, NE - Article 86. You, did, on divers occasions, between on or about 18 Dec 01 and on or about 19 Dec 01, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to AB, and 45 days extra duty. (No appeal) (No mitigation)

(2) 21 Dec 01, Vacation, Offutt AFB, NE - Article 134. You, being indebted to Consumer Adjustment Corporation in the sum of about \$237.58 for a debt, which amount became due and payable on or about 31 Jan 01, did, from on or about 31 Jan 01, to on or about 23 Nov 01, dishonorably fail to pay said debt. Reduction to Airman. (No appeal) (No mitigation)

(3) 24 Oct 01, Offutt AFB, NE - Article 92. You, who knew of your duties, on or about 17 Sep 01, were derelict in the performance of those duties in that you willfully failed to pay the balance of \$223.54 on your Government Travel Credit Card, resulting in the account becoming 120 days delinquent, as it was your duty to do. Article 134. You, being indebted to Consumer Adjustment Corporation in the sum of about \$236.58 for a debt, which amount became due and payable on or about 31 Jan

01, did, from on or about 31 Jan 01, to on or about 23 Sep 01, dishonorably fail to pay said debt. Suspended reduction to Airman, forfeiture of \$75.00 pay per month for 2 months, 10 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 22 Sep 99 - 15 Apr 01 Offutt AFB 4 (HAF Dir)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (1) Das
TAMS: (2) Yrs (5) Mos (7) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 7 Apr 04.
(Change Discharge to Honorable)

Issue 1: The charges my discharge was based on, occurred off-duty hours.

Issue 2: While serving in the Air Force my supervisors always commended me for my attitude and work ethics, often giving me leadership positions within my department.

Issue 3: During the discharge process (sic), my supervisor shared with me that my First Sergeant who made the report against me had told him he was "making an example" of me.

Issue 4: My present discharge status restricts my GI bill.

Issue 5: My discharge was financial irresponsibility. Since my discharge I have received financial assistance and am learning to budget my money. My debts are slowly but consistently being paid off.

Issue 6: I realize my past actions in regards to financial responsibility have been lacking however, I have changed my life style and am in the process of paying off all my debts. I have a desire to serve in youth ministry and have enrolled in Valley Forge Christian College to accomplish this desire. A change in my discharge status would allow my dreams to become a reality. Thank you for your time.

ATCH

None.

11JUN04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

FD2004-00134

20 Feb 02

MEMORANDUM FOR [REDACTED]

FROM: 97 IS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct--Pattern of Misconduct. The authority for my recommendation is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. 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. You, who knew of your duties at or near Offutt Air Force Base, Nebraska, on or about 17 September 2001, were derelict in the performance of those duties in that you willfully failed to pay the balance of \$223.54 on your Government Travel Card, resulting in the account becoming 120 days delinquent, as it was your duty to do.

b. You, being indebted to Consumer Adjustment Corporation in the sum of about \$236.58 for a debt, which amount became due and payable on or about 31 January 2001, did at or near Offutt Air Force Base, Nebraska, from on or about 31 January 2001, to on or about 23 September 2001, dishonorable fail to pay said debt.

For this incidents listed in paragraphs a and b, you received Nonjudicial Punishment, dated 24 October 2001, consisting of suspended reduction to the grade of E-2, forfeitures of \$75.00 pay per month for two months, 10 days extra duty and a reprimand. In addition, an Unfavorable Information File (UIF) was established. (Atch 1-1)

c. You, being indebted to Consumer Adjustment Corporation in the sum of about \$237.58 for a debt, which amount became due and payable on or about 31 January 2001, did at or near Offutt Air Force Base, Nebraska, from on or about 31 January 2001, to on or about 23 November 2001, dishonorably fail to pay said debt. For this incident you received Vacation Action, dated 21 December 2001, consisting of a reduction to the grade of E-2, with a new date of rank of 24 October 2001. (Atch 1-2)

d. You did, at or near Offutt Air Force Base, Nebraska, on divers occasions, between on or about 18 December 2001 and on or about 19 December 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 20th Intelligence Squadron. For this incident you received Nonjudicial Punishment, dated 5 February 2002, consisting of suspended reduction to the grade of E-1 and 45 days extra duty. In addition, this action was placed in your already existing Unfavorable Information File (UIF). (Atch 1-3)

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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. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably any other branch of the military.
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 [REDACTED] Bldg 323C, Room 302, Phone [REDACTED], at 0930 on 21 Feb 02. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 25 Feb 02 at 1600 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 on 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 55th Medical Group, at the Red Green Team with [REDACTED] at 1300hrs on 21 Feb 02 for the examination. Please pick up your medical records prior to your appointment.
8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at 1600hrs on 21 Feb 02 with your escort.
9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center at _____ on _____ for the briefing.
10. 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 unit orderly room.
11. Execute the acknowledgment provided and return it to me immediately.

[REDACTED]
[REDACTED] Maj, USAF
Commander, 97th Intelligence Squadron

Attachments:

Atch 1-1; NJP/UIF, dated 24 October 2001

Atch 1-2; Vacation Action, dated 21 December 2001

FD 2004-00134

Atch 1-3; NJP/UIF entry, dated 5 February 2002