

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
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES No			
X			

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

ISSUES A93.23	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 16 Sep 2004	CASE NUMBER FD-2004-00224	
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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.

[Handwritten Signature]

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

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

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 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 was discharged for misconduct, minor disciplinary infractions. He had an Article 15, a vacation of suspended punishment, and a Letter of Counseling. His misconduct included making a false official statement, leaving the scene of an on-base accident, and three separate incidents of disrespect to noncommissioned officers. At the time of the discharge, member consulted counsel and waived his right to submit a statement in his own behalf. Applicant now contends he was getting into trouble as a result of other personal problems he was experiencing. While it is understandable that a member experiencing personal problems has additional stress, member has not provided sufficient evidence as to what his problems or resultant stressors were or how they were unique. Furthermore, there is little evidence he sought help from available agencies such as the Chaplain, family support center, life skills clinic, or his chain of command. In view of the unit's administrative actions, member had ample opportunity to come within expected standards of conduct. But he was either unable or unwilling to correct his behavior. The Board could not find any mitigation or extenuation to warrant an upgrade, and the records review disclosed no inequity or impropriety.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Langley AFB, VA on 19 Aug 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Jan 82. Enlmt Age: 18 6/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-48, E-33, G-32, M-24. PAFSC: 2S051 - Supply Management Journeyman. DAS: 9 Nov 02.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Jul 00 for 4 yrs. Svd: 3 Yrs 1 Mo 0 Das, all AMS.

b. Grade Status: AMN - 21 Feb 03 (Article 15, 21 Feb 03)
 A1C - 20 Nov 01
 AMN - 20 Jan 01

c. Time Lost: None.

d. Art 15's: (1) 18 Jul 03, Vacation, Langley AFB, VA - Article 91. You, on or about 25 Jun 03, were disrespectful in language toward TSgt [REDACTED] a noncommissioned officer, then known by you to be a noncommissioned officer, who was then in the execution of his office, by saying to him, "just be a man," and that he was a "coward," or words to that effect. Forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 21 Feb 03, Langley AFB, VA - Article 91. You, on or about 7 Jan 03, were disrespectful in language toward SSgt [REDACTED] a noncommissioned officer, then known by you to be a noncommissioned officer, who was then in the execution of her office, by saying to her, "I am not going to do it and you can't make me," and "I guess we'll be here all night," or words to that effect. Article 107. You, did, on or about 22 Jan 03, with intent to deceive, make to SSgt [REDACTED], an official statement, to wit: "I got out of my car to see if I did any damage to the other vehicle, there was none," which statement was false in that you never got out of your vehicle to check for damage, and was then

known by you to be so false. Article 134. You, the driver of a vehicle at the time of an accident in which said vehicle was involved, and having knowledge of said accident, did, on or about 22 Jan 03, wrongfully leave the scene of the accident without making your identity known. Reduction to Airman. Suspended forfeiture of 100.00 pay per month for 2 months. Thirty days extra duty. (No appeal) (No mitigation)

- e. Additional: LOC, 7 JAN 03 - Disrespect to an NCO.
- f. CM: None.
- g. Record of SV: 20 Jul 00 - 20 Mar 02 Spangdahlem AB 3 (Initial)
21 Mar 02 - 29 Sep 02 Spangdahlem AB 4 (CRO)
- h. Awards & Decs: AFTR, NDSM, AFOUA.
- i. Stmt of Sv: TMS: (3) Yrs (1) Mos (0) Das
TAMS: (3) Yrs (1) Mos (0) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 2 Jun 04.
(Change Discharge to Honorable)

Issue 1: I would like to have my discharge upgraded to an Honorable because if you look at my supporting documents it shows that I was going through a lot of problems which resulted in my getting in trouble. As I was improving in my Air Force career it got cut short because I was release (sic) despite explaining my situation.

ATCH

- 1. Written Response to Article 15 Vacation Action.

26JUL04/ia



DEPARTMENT OF THE AIR FORCE
AIR COMBAT COMMAND REGIONAL SUPPORT SQUADRON
LANGLEY AFB, VIRGINIA

FD 2004-00224

AUG 07 2003

MEMORANDUM FOR AIRMAN [REDACTED]

FROM: ACC RSS/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 AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. If my recommendation is approved, your discharge will be described as under honorable conditions (General) and you will be ineligible for reenlistment in the Air Force.
2. My reasons for this action are:
 - a. On or about 7 Jan 03, you were disrespectful to an NCO when you continually interrupted her while she was talking and you displayed a disrespectful tone and demeanor. For this incident you received a Letter of Counseling (LOC), dated 7 Jan 03.
 - b. On or about 7 Jan 03, you were disrespectful in language toward an NCO. On or about 22 Jan 03 you made a false official statement, and you left the scene of an accident. For these incidents you were given an Article 15, with a punishment of reduction in grade to Airman, forfeiture of \$100.00 pay for 2 month (suspended), and 30 days extra duty, dated 21 Feb 03. This Article 15 established your Unfavorable Information File (UIF).
 - c. On or about 25 Jun 03, you were disrespectful in language to an NCO for which the suspended portion of the Article 15 punishment was vacated on 18 Jul 03. This action was added to your UIF.
3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g) regarding recoupment of education assistance funds, if applicable. 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 any special pay, bonus, or education assistance funds may be subject to recoupment.
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 the Area Defense Counsel, 54 Willow Street, Bldg. 147, [REDACTED] at 0900 hours on 8 AUGUST 2003. 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 1630 hours on 12 AUGUST 2003

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 1st Medical Group, Physical Exam Section at 0945 hours on 11 AUGUST 2003 and an additional examination will be scheduled if necessary.

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 unit orderly room.

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



Colonel, USAF

Commander

Attachments:

1. Supporting Documents
 - a. LOC, 7 Jan 03
 - b. AF Form 3070, 21 Feb 03
 - c. AF Form 366, 18 Jul 03
 - d. AF Form 1137
2. Receipt of Notification Memorandum