

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)			GRADE		AFSN/SSAN			
[REDACTED]			AMN		[REDACTED]			
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				VOTE OF THE BOARD				
				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
ISSUES A94.05		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		CASE NUMBER						
12 Oct 2004		FD-2004-00232						
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: 10/12/2004				
TO:			FROM:					
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-2004-00232

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

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, change of reason and authority for discharge, and change of reenlistment code are denied.

ISSUE: Applicant contends discharge was inequitable because it was too harsh and was based on the actions of his dependent spouse at the time. The records indicated the applicant received two Article 15s, three Letters of Counseling, and a Vacation action under the UCMJ for various acts of misconduct, including assault. 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.

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]

(Former AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Elmendorf AFB, AK on 19 May 95 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: 29 Aug 72. Enlmt Age: 20 0/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-51, E-69, G-72, M-61. PAFSC: 3A031 - Information Management Apprentice. DAS: 20 Jun 93.

b. Prior Sv: (1) AFRes 9 Sep 92 - 20 Sep 92 (12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as 21 Sep 92 for 6 yrs. Svd: 2 Yrs 7 Mo 29 Das, all AMS.

b. Grade Status: Amn - 26 Apr 95 (Article 15, 26 Apr 95)
SrA - Unknown
A1C - 4 Nov 92

c. Time Lost: None.

d. Art 15's: (1) 26 Apr 95, Elmendorf AFB, AK - Article 86. You, did, on or about 12 Apr 95, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman, forfeiture of \$200.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 31 Mar 95, Vacation, Elmendorf AFB, AK - Article 128. You, did, on or about 18 Mar 95, assault [REDACTED] by poking and grabbing her. Forfeiture of \$200.00. (No appeal) (No mitigation)

(3) 16 Mar 95, Elmendorf AFB, AK - Article 128. You, did, on or about 28 Feb 95, assault [REDACTED] by pushing her. Article 86. You, did, on or about 6 Mar 95, without authority, fail to go at the time prescribed to your appointed place of duty. Article 128. You, did, on or about 7 Mar 95, assault [REDACTED] by striking at her with your hand. Article 86. You, did, on or about 7 Mar 95, without authority, fail to go at the time prescribed to your appointed place of duty. Article 91. You, having received a lawful order from [REDACTED] a noncommissioned officer, then

known by you to be a noncommissioned officer, to return to your dormitory room to sleep in order to return to work for a 12-hour shift, an order which it was your duty to obey, did, on or about 7 Mar 95, willfully disobey the same. Reduction to A1C. Suspended forfeiture of \$200.00 pay. (Appeal/Withdrawn) (No mitigation)

e. Additional: LOA, 06 APR 95 - Late for work.
LOA, 02 DEC 94 - Late for work.
RIC, 23 AUG 94 - Late for work.

f. CM: None.

g. Record of SV: 21 Sep 92 - 20 May 94 Elmendorf AFB 4 (Initial)

h. Awards & Decs: AFTR, AFOSLTR.

i. Stmt of Sv: TMS: (2) Yrs (8) Mos (11) Das
TAMS: (2) Yrs (7) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 21 Jun 04.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: My discharge was based on the actions of my dependent, which was my spouse at the time. I have since then divorced her and feel that my military service was wrongly effected by her. I wish the board to change my discharge characterization based on the fact that I myself was a good airman. I no longer carry the issues of a troublesome wife and wish to return to military service.

ATCH

1. Two Letters of Support.

28JUL04/ia

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

MEMORANDUM FOR 3 EMS/LGMW [REDACTED]

MAY 12 1995

FROM: 3 EMS/CC

SUBJECT: Notification Memorandum

12 May 95

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 and AFI 36-3208, under the provisions of 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 23 Aug 94, you were late to work, as evidenced by a Letter of Counseling (LOC), dtd 23 Aug 94.

b. On or about 2 Dec 94, you were late to work, as evidenced by a Letter of Admonition (LOA), dtd 2 Dec 94

c. On or about 28 Feb 95, you assaulted [REDACTED] by pushing her. On or about 6 Mar 95, you did, without authority, fail to go at the time prescribed to your appointed place of duty. On or about 7 Mar 95, you assaulted [REDACTED] by striking at her with your hand. On or about 7 Mar 95, you did, without authority, fail to go at the time prescribed to your appointed place of duty. On or about 7 Mar 95, you disobeyed a lawful order, given by a noncommissioned officer. These acts are evidenced by an Article 15, dtd 24 Mar 95.

d. On or about 6 Apr 95, you reported for duty 10 minutes late, as evidenced by a LOA, dtd 6 Apr 95.

e. On or about 18 Mar 95, you assaulted [REDACTED] by poking and grabbing her, as evidenced by a Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dtd 7 Apr 95.

f. On or about 12 Apr 95, you did, without authority, fail to go at the time prescribed to your appointed place of duty, as evidenced by an Article 15, dtd 28 Apr 95.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you are 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 legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [redacted] at Bldg 6-920, rm 330 on 15 May 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 17 May 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 3rd Aerospace Medicine Squadron, Building 24-850 at 0715 on 16 May with your medical records. Fast (drink water only) for 14 hours prior, no alcohol 72 hours prior, no tobacco products 6 hours prior to examination, bring eyeglasses and contact solution if using contacts, and you must be in uniform for the examination.

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 at your Squadron Orderly Room.

9. The discharge authority will make the finding and recommendations required under 10 U.S.C 2005(g).



Attachments:

1. LOC, dtd 23 Aug 94
2. LOA, dtd 2 Dec 94
3. Art 15, dtd 24 Mar 95
4. LOA, dtd 6 Apr 95
5. AF Form 366, dtd 7 Apr 95
6. Art 15, dtd 28 Apr 95
7. Other supporting documents (6)