

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

|  |                                |                                      |
|--|--------------------------------|--------------------------------------|
| <b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b><br>████████████████████ | <b>GRADE</b><br><br><b>SRA</b> | <b>AFSN/SSAN</b><br>████████████████ |
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|-----------------|-----------|--|---|
| <b>TYPE GEN</b> | <b>X</b>  | <b>PERSONAL APPEARANCE</b>                     | <b>RECORD REVIEW</b>                          |
| <b>COUNSEL</b>  |           | <b>NAME OF COUNSEL AND OR ORGANIZATION</b>     | <b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b> |
| <b>YES</b>      | <b>No</b> | ████████████████████<br><b>AMERICAN LEGION</b> | ████████████████████                          |
| <b>X</b>        |           |  |   |

| <b>MEMBER SITTING</b> | <b>VOTE OF THE BOARD</b> |     |      |       |      |
|-----------------------|--------------------------|-----|------|-------|------|
|                       | HON                      | GEN | UOHC | OTHER | DENY |
|                       |                          |     |      |       | X    |
|                       |                          |     |      |       | X    |
|                       |                          |     |      |       | X    |
|                       |                          |     |      |       | X    |
|                       |                          |     |      |       | X    |

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|-------------------------|-------------------------------|--|--|--|
| <b>ISSUES</b><br>A92.19 | <b>INDEX NUMBER</b><br>A67.10 | <b>EXHIBITS SUBMITTED TO THE BOARD</b> |  |  |
|                         |                               | <b>1</b>                               | ORDER APPOINTING THE BOARD                                   |  |
|                         |                               | <b>2</b>                               | APPLICATION FOR REVIEW OF DISCHARGE                          |  |
|                         |                               | <b>3</b>                               | LETTER OF NOTIFICATION                                       |  |
|                         |                               | <b>4</b>                               | BRIEF OF PERSONNEL FILE                                      |  |
|                         |                               |  | COUNSEL'S RELEASE TO THE BOARD                               |  |
|                         |                               |  | ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE |  |
|                         |                               |  | TAPE RECORDING OF PERSONAL APPEARANCE                        |  |

|                                    |                                     |  |
|------------------------------------|-------------------------------------|--|
| <b>HEARING DATE</b><br>02 Dec 2004 | <b>CASE NUMBER</b><br>FD-2004-00246 |  |
|------------------------------------|-------------------------------------|--|

**APPLICANT'S ISSUES AND THE BOARD'S DECISIONS DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

The applicant was scheduled for a personal appearance before the discharge review board but after acknowledging intent to appear failed to do so without requesting a postponement.

Case heard at Washington, D.C.

Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.

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|--|--|
| <b>DATE:</b> 12/3/2004   |  |
| <b>TO:</b><br>SAF/MRBR<br>550 C STREET WEST, SUITE 40<br>RANDOLPH AFB, TX 78150-4742 | <b>FROM:</b><br>SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL<br>AIR FORCE DISCHARGE REVIEW BOARD<br>1535 COMMAND DR, 3RD FLOOR<br>ANDREWS AFB, MD 20762-7002 |

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

The applicant was scheduled for a Personal Appearance before the Discharge Review Board at Andrews AFB, MD, on December 2, 2004, but after acknowledging intent to appear, failed to do so without requesting a postponement.

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 applicant substantiates an inequity or impropriety that would justify a change of discharge.

**ISSUES:** Applicant was discharged for minor disciplinary infractions. During the enlistment under review, she received an Article 15, five Letters of Reprimand, two Letters of Counseling, had an Unfavorable Information File, and was placed on the Control Roster. Her misconduct included multiple incidents of failure to go, writing two bad checks, failure to obey a lawful order, dereliction of duty, and operating a motor vehicle while her license was suspended. She also had a referral Enlisted Performance Report rated an overall "2" which noted she had trouble completing tasks and needed constant supervision. Furthermore she was permanently decertified from Personnel Reliability Program duties due to being diagnosed alcohol dependent and was admitted to an in-patient rehabilitation treatment facility for same. At the time of the discharge, member consulted counsel and waived her right to submit statements in her own behalf. While applicant now notes her previous period of honorable service, the Board points out that for the period of service under review, her last enlistment, her misconduct was sufficient reason for receiving a general discharge. The Board noted an error in the processing of the discharge however, in that one incident of misconduct from a previous enlistment was used to characterize member's service; this was improper because incidents from a previous enlistment may only be used to determine if a member should be discharged, but not what characterization of service should be given. The Board concluded however that this was a harmless error in that member's misconduct during the enlistment under review was severe enough to warrant the general discharge, and the issuance of same was not an abuse of command discretion. The Board further noted member's breaches of discipline deviated from standards expected of all Air Force members. Such unacceptable conduct warranted the discharge applicant received; it does not warrant an honorable characterization. The Board finds the applicant's discharge to be appropriate and in accordance with Air Force policy.

Applicant cited loss of her Veterans Administration benefits as a result of her general discharge. The Board notes that normally, benefits earned during an earlier period of honorable service are not voided by a punitive discharge or a discharge under other than honorable conditions during a subsequent enlistment. (See 38 USC, Section 5303(a); US v McElroy 40 MJ 368, 372 [CMA 1994].) Caveat: Any person may be denied VA benefits, regardless of an earlier period of honorable service, if shown by evidence to the Secretary of Veterans Affairs to be guilty of treason, mutiny, sabotage, or rendering assistance to the enemy of the United States or of its allies. (References: 38 USC, Sections 5303, 6103, 6104, 6105; 38 CFR, Section 3.12; and, US V McElroy, 40 MJ 368 [CMA 1994])

If the applicant is concerned about receipt of G.I. Bill education benefits as justification for upgrade, the DRB notes that when the applicant applied for these benefits, she signed a statement (DD Form 2366, on June 2, 1997) that she understood she must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits may be having on the applicant, but this is not a matter of inequity or impropriety which warrants an upgrade.

**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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Wright-Patterson AFB, OH on 29 Apr 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 2 Aug 77. Enlmt Age: 19 8/12. Disch Age: 24 8/12. Educ: HS DIPL. AFQT: N/A. A-92, E-60, G-76, M-36. PAFSC: 3P051 - Security Forces Journeyman. DAS: 17 Oct 97.

b. Prior Sv: (1) AFRes 15 Apr 97 - 20 May 97 (1 month 6 days) (Inactive).

(2) Enlisted as AB 21 May 97 for 4 yrs. Svd: 3 yrs 4 months 12 days, all AMS. AMN - 21 Nov 97. A1C - 21 Sep 98. SrA - 21 May 00. EPRs: 5,5,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 4 Oct 00 for 6 yrs. Svd: 1 Yrs 6 Mo 25 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: (1) 14 Feb 02, Ramstein AB, Germany - Article 134. You did, within the Federal Republic of Germany, on or about 12 Nov 01 and on or about 20 Nov 01, make and utter to Army and Air Force Exchange Service certain checks, in words and figures as follows, to wit: Check#112, dated 4 Dec 01, for \$254.40, and Check#115, dated 7 Dec 01 for \$150.00 for the purchase of lawful currency, articles of value, and/or things of value, and did thereafter dishonorably fail to maintain sufficient funds in the Service Credit Union for payment of such checks in full upon their presentment for payment. Suspended reduction to A1C. Thirty days extra duty (suspended). Forfeiture of \$50.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 25 JAN 02 - Late for work on numerous occasions, and leaving the workplace without permission.  
 LOR, 11 DEC 01 - Failure to go, and failure to obey a lawful order.  
 LOC, 07 DEC 01 - Traveling to another installation without permission, late for work, failure to go,

failure to notify supervisors of status.  
LOR, 25 JUN 01 - Traffic ticket for driving with a  
suspended driver's license.  
LOR, 13 APR 01 - Dereliction of duty.  
LOC, 10 APR 01 - Missed appointment.  
LOR, 04 OCT 99 - Unlawfully using AAFES property without  
authority and failure to go.

f. CM: None.

g. Record of SV: 1 Sep 00 - 31 Aug 01 Ramstein AB 2 (Annual)REF

h. Awards & Decs: AFTR, AFLSAR, AFOUA, AFGCM.

i. Stmt of Sv: TMS: (5) Yrs (0) Mos (15) Das  
TAMS: (4) Yrs (11) Mos (9) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 25 Jun 04.  
(Change Discharge to Honorable)

Issue 1: I was a good airman as my rank at time of discharge shows. I had a good four years of my first term of service. I signed on for another enlistment and has (sic) some minor infractions. When I was offered a chance to get out I took it. I was told that because I had completed my first tour of service I would still be eligible for benefits. Now I find that that (sic) is not true. Please review my service personnel records and reverse/upgrade my discharge.

**ATCH**

1. DD Form 214.
2. Veterans Service Commission Cover Letter.

5AUG04/ia



DEPARTMENT OF THE AIR FORCE  
86TH AIRLIFT WING (USAFE)

19 MAR 2002

MEMORANDUM FOR SRA [REDACTED] 568 SFF

FROM: 568 SFF/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 and AFI 36-3208, Chapter 5, paragraph 5.49, *Minor Disciplinary Infractions*. If my recommendation is approved, your service will be characterized as honorable or general (under honorable conditions). I am recommending that your service be characterized as general.
2. My reasons for this action are:
  - a. On or about 2 October 1999, an investigation revealed you unlawfully used AAFES property and without authority, you failed to go at the time prescribed to your appointed place of duty. For this incident you received a Letter of Reprimand (LOR) dated 4 October 1999 (Atch 1a).
  - b. On or about 9 April 2001, without authority, you failed to go at the time prescribed to your appointed place of duty. For this incident you received a Letter of Counseling (LOC) dated 10 April 2001 (Atch 1b).
  - c. On or about 11 April 2001, you were derelict in the performance of your duties. For this action you received an LOR, dated 13 April 2001 (Atch 1c).
  - d. On or about 1 June 2001, you operated a motor vehicle while serving a six-month driving suspension. For this action you received an LOR, dated 25 June 2001. Additionally, this document was placed in your existing UIF (Atch 1d).
  - e. On or about 5 December 2001, you were derelict in the performance of your duties and you failed to go at the time prescribed to your appointed place of duty. For this action you received an LOC, dated 7 December 2001. Additionally, this document was placed in your existing UIF and you were also placed on a control roster (Atch 1e).



f. On or about 10 December 2001, you failed to obey a lawful order. For this action you received an LOR, dated 11 December 2001. Additionally, this document was placed in your existing UIF (Atch 1f).

g. On or about 8 and 9 January 2002, without authority, you failed to go at the time prescribed to your appointed place of duty. For this action you received an LOR, dated 25 January 2002. Additionally, this document was placed in your existing UIF (Atch 1g).

h. On or about 12 and 20 November 2001, you wrote checks and failed to maintain sufficient funds in you bank account to pay these checks upon presentation. For this action you received nonjudicial punishment, dated 14 February 2002. Additionally, this document was placed in your existing UIF (Atch 1h).

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, 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 educational 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** Capt [REDACTED], Area Defense Counsel, Ramstein AB, GE, Building 2111, DSN 480-2182/2492 on 20 Mar 02 @ 0900. 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 (allow 3 workdays)** 22 Mar 02 at 1200 hours 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.

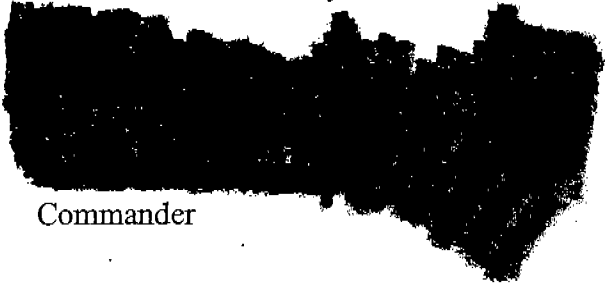
7. You have been scheduled for a medical examination. **You must report in uniform with your medical records and an escort to the Ramstein AB Clinic, Physical Exams, Building 2121 on** 19 Mar 02 @ 0800 for the evaluation. If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.

8. Although not the primary reason for discharge, your entry into residential treatment for alcohol rehabilitation and it's entry into your UIF are additional considerations and are therefore attached (Atch 2).

FD2004-00246

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. Execute the attached acknowledgement and return it to me immediately.



Commander

Attachments:

1. Supporting Documents:

- a. LOR, 4 Oct 99
  - b. LOS, 4 Oct 00
  - c. LOC, 10 Apr 01
  - d. LOR, 13 Apr 01
  - e. LOR, 25 Jun 01
  - f. LOC, 7 Dec 01
  - g. LOR, 11 Dec 01
  - h. LOR, 25 Jan 02
  - i. Art 15, 14 Feb 02
2. Other Documents: Letter of Support
3. Airman's Receipt of Notification Memorandum