

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██				GRADE AMN		AFSN/SSAN ██████████		
TYPE GEN		<input checked="" type="checkbox"/>		PERSONAL APPEARANCE				
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION				RECORD REVIEW		
YES		No		ADDRESS AND OR ORGANIZATION OF COUNSEL				
<input checked="" type="checkbox"/>				██				
MEMBER SITTING				VOICE OF THE BOARD				
				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD				
A94.11		A67.09		1	ORDER APPOINTING THE BOARD			
A01.31				2	APPLICATION FOR REVIEW OF DISCHARGE			
A93.07				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						
30 Nov 2004		FD-2004-00250						
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 and the right to submit an application to the AFBCMR.								
INDORSEMENT				DATE: 11/30/2004				
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-2004-00250**

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

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB, MD on 30 November 2004. No witnesses testified on the applicant's behalf.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's contentions, 30 Nov 04

Exhibit 6: Memo for 3-day pass from unit commander, undated

Exhibit 7: CDC test results, 18 Dec 00 (91%)

Exhibit 8: Character reference letter, 26 Nov 01, unsigned

Exhibit 9: Discrimination complaint letter to unit commander from applicant, 31 Mar 01

Exhibit 10: Response to referral EPR letter, 27 Feb 01

Exhibit 11: Referral EPR Letter to applicant from rater, 18 Oct 01

Exhibit 12: Rebuttal to 4 May 01 Letter of Reprimand (LOR), 8 May 01

Exhibit 13: Rebuttal to 5 Apr 01 LOR, 8 Apr 01

Exhibit 14: Rebuttal to 26 Mar 01 LOR, 29 Mar 01

Exhibit 15: Referral EPR letter to applicant from rater, 13 Feb 01

Exhibit 16: Response to referral EPR to additional rater, 25 Feb 01

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:**

Issue 1. Applicant contends that his marital difficulties affected his ability to concentrate on his duties, and resolve his financial responsibilities. He also contends that his marital difficulties spilled into his relationships with his unit's noncommissioned officers and commissioned officers further affecting his ability to serve. The Board concluded that while some of the misconduct revolved around his marital difficulties and provided some extenuation, there was, nonetheless, substantial unrelated misconduct which supported his discharge and characterization of service.

Issue 2. Applicant contends that three of the recorded incidents were incorrect or misconstrued. In the first incident, the applicant contends that he was improperly reprimanded for a failure to deliver a supply item in a timely manner. The DRB accepted his contention and noted that the separation authority had been put on notice that this portion of his LOR had been rescinded. The DRB also found that the remaining portion of the LOR pertaining to the negligent operation of a government vehicle was still valid. In the second incident, the applicant contends that he was improperly reprimanded for a verbal dispute and cited two witness statements he submitted in response to the LOR. The DRB acknowledged that the facts with respect to this incident were in dispute but the member's commander, nevertheless, determined that the applicant was involved in the verbal altercation and placed the LOR in the applicant's UIF. Finally, the applicant contends that he did not violate a no-contact order as stated in his Article 15 action and that the alleged violation was precipitated by his unit's actions in bringing him into contact with the protected individual.

The DRB found that the applicant, however, failed to present sufficient information to overcome his commander's prior determination. Notwithstanding the applicant's contentions, the Board also concluded that there was ample minor misconduct to support the discharge and the characterization of the applicant's enlistment as "general," under honorable conditions.

Issue 3. Applicant contends that the unit which recommended his discharge had a predisposed attitude toward him based upon information forwarded from his first unit of assignment. The DRB noted that the applicant arrived at his new assignment after having received six records of individual counseling and a letter of reprimand; that he was verbally counseled by his first sergeant within six days of arriving at his new assignment for being unprofessional, rude, and disrespectful; and that the unit's first sergeant had stated in an e-mail that the applicant had a long track record of this type of behavior and while his last base couldn't make him a civilian, they provided plenty of ammo to get started. The Board concluded, however, that the unit was not predisposed against the applicant and that the unit continued to attempt to rehabilitate him for approximately eighteen months before recommending discharge.

**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 fr Arnold AFB, TN on 20 Dec 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 18 Feb 73. Enlmt Age: 24 11/12. Disch Age: 28 10/12. Educ: HS DIPL. AFQT: N/A. A-51, E-42, G-34, M-47. PAFSC: 2S031 - Supply Management Apprentice. DAS: 6 May 00.

b. Prior Sv: (1) AFRes 11 Feb 98 - 14 Apr 98 (2 months 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 15 Apr 98 for 6 yrs. Svd: 3 Yrs 8 Mo 6 Das, all AMS.

b. Grade Status: AMN - 17 Nov 00 (Vacation of Article 15, 18 May 01)  
 A1C - 30 May 98

c. Time Lost: None.

d. Art 15's: (1) 18 May 01, Vacation, RAF Mildenhall, UK - Article 92. You, who knew or should have known your duties, between on or about 15 Feb 01 and on or about 7 Mar 01, were derelict in the performance of those duties in that you negligently failed to make 2 scheduled payments on your Nations Bank Government Card account (Check \$578 were returned for insufficient funds) in accordance with your agreed payment plan with Nations Bank, as it was your duty to do. Reduction to Airman, and forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 17 Nov 00, RAF Mildenhall, UK - Article 92. You, having knowledge of a lawful order issued by SMSgt [REDACTED] not to have contact with A1C [REDACTED] an order which it was your duty to obey, did, at or near Newmarket, UK, on or about 11 Oct 00, fail to obey the same by attempting to speak with A1C [REDACTED] Article 107. You did, at or near Newmarket, UK, on or about 11 Oct 00, with intent to deceive, make to TSgt [REDACTED] and SSgt [REDACTED] an official statement, to wit: "I do not have the car keys in my possession", or words to that effect, which statement was false in that you proceeded to open the trunk of the

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 28 Jun 04.  
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

**ATCH**

1. DD Forms 214.
2. Attorney Correspondence.
3. Letter of Recognition.
4. Training Certificate.
5. Response to Involuntary Discharge.
6. Memo For Record Response to Letter of Reprimand.
7. Three Personal Statements.
8. Notification Memorandum.
9. Email Correspondence.
10. Authorization For Release of Records.
11. Authorization For Release of Records - HIPAA Complaint.

6AUG04/ia



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 100TH AIR REFUELING WING (USAF)

FD 2004-80250

19 Nov 01

MEMORANDUM FOR AMN [REDACTED]  
100<sup>TH</sup> SUPPLY SQUADRON

FROM: 100 SUPS/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 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as either honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are:
  - a. On 14 January 1999, you were late for duty, for this violation you received a Record of Individual Counseling, dated 14 January 1999.
  - b. On 16 March 1999, you failed to report to a scheduled appointment. For your failure, you received a Record of Individual Counseling, dated 23 March 1999.
  - c. On 27 April 1999, you failed to participate in a squadron event and did not return to duty. For your misconduct, you received a Record of Individual Counseling, dated 27 April 1999.
  - d. On 7 July 1999, you were late for duty. For this violation, you received a Record of Individual Counseling, dated 7 July 1999.
  - e. On 25 February 2000, you failed to "pull priority" thereby risking mission delays. For your misconduct, you received a Record of Individual Counseling, dated 25 February 2000.
  - f. On 20 March 2000, you disobeyed an order and were disrespectful in an e-mail message sent to a Non-Commissioned Officer (NCO). As a result, you received a Record of Individual Counseling, dated 21 March 2000. You also received a Letter of Reprimand, dated 5 April 2000, for your continued lack of respect for authority and discipline.
  - g. On 11 May 2000, you were rude, unprofessional, and disrespectful towards the Financial Services Office personnel while inprocessing at the Bob Hope Community Center. For your misconduct, you were verbally counseled on 12 May 2000 as per an MFR, dated 21 June 2000.

h. On or about 26 June 2000, you inappropriately argued with your wife outside of the Pave PS&D office, disrupting her work. As a result, you were verbally counseled on 27 June 2000 as per an MFR dated 26 Jun 2000.

i. On or about 20 July 2000, you were disrespectful to a noncommissioned officer. For this violation, you received a Letter of Reprimand, dated 21 July 2000.

j. Between on or about 6 October 2000 and 11 October 2000, you violated a non-contact order, made a false statement, assaulted your wife, wrongfully communicated a threat, and were disorderly which conduct was of a nature to bring discredit upon the armed forces. For your misconduct, you received nonjudicial punishment for violations of Articles 92, 107, 128, and two specifications of Article 134. As a result, your punishment consisted of a suspended reduction to the grade of Airman (E-2), forfeitures of \$150 pay per month for 2 months, \$100/mo of which was suspended, 15 days extra duty, and a reprimand. An Unfavorable Information File (UIF) was also established.

k. On 24 January 01, you displayed insubordinate conduct to a Non Commissioned Officer (NCO), for your misconduct, you received a Record of Individual Counseling, dated 26 January 2001.

l. Between on or about 9 February 2001 and 16 February 2001, you were in a vehicle accident due to your negligence and inattention to detail. As a result, you received a Letter of Reprimand, dated 23 February 2001.

m. Several times over the previous months you failed to make payment on your government credit card. For your continued irresponsibility, you received a Letter of Reprimand, dated 1 March 2001. This action was placed in your existing UIF.

n. In February 2001 and March 2001, you failed to pay your rent. For your failure, you received a Letter of Reprimand, dated 26 March 2001.

o. On 27 March 2001, you made a false official statement to Captain [REDACTED]. On 2 April 2001, you made a false official statement to [REDACTED]. For your violation of Article 107, UCMJ, you received a Letter of Reprimand, dated 5 April 2001.

p. Between on or about 28 February 2001 and 7 March 2001, you wrote two checks for payment on your Nations Bank government travel card, which were returned for insufficient funds. For your financial irresponsibility, you were given a Letter of Reprimand, dated 4 May 2001.

q. Between on or about 15 February 2001 and on or about 7 March 2001, you failed to make two scheduled payments on your Nations Bank government travel card. As a result, on 24 May 2001, your suspended nonjudicial punishment was vacated and you were reduced to the grade of Airman (E-2), with forfeitures of \$100 pay per month for 2 months.

r. On or about 25 October 2001, you were involved in a verbal altercation. For your misconduct, you received a Letter of Reprimand, dated 5 November 2001. This action was placed in your existing UIF.

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 will be discharged or retained in the Air Force and how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the **Area Defense Counsel, at building 948, RAF Lakenheath, DSN 226-3608 on Monday, 19 Nov 01 at 1330 hours with Capt. [REDACTED]** 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 Monday, 26 November 01 (3 duty days) 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 **Separations Briefing. Please report to Building 436, Room 205, RAF Mildenhall, DSN 238-5322 on Tuesday, 20 November 01 at 1000 hours.**

8. You are scheduled for a medical examination. **You must report, with your medical records to Building 954, RAF Lakenheath, Family Practice on 27 November 01 at 1430 hours, then proceed to the Physical Exams Section.** You must be in uniform. If you have been prescribed glasses, you must wear your glasses to the appointment.

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 at the unit orderly room or the Area Defense Counsel office.

[REDACTED]

Maj, USAF

Commander



FDZ004-00250

Attachments:

1. Record of Individual Counseling, dtd 14 Jan 99
2. Record of Individual Counseling, dtd 23 Mar 99
3. Record of Individual Counseling, dtd 27 Apr 99
4. Record of Individual Counseling, dtd 7 Jul 99
5. Record of Individual Counseling, dtd 25 Feb 00
6. Record of Individual Counseling, dtd 21 Mar 00
7. Letter of Reprimand, dtd 5 Apr 00
8. Memo for Record on Verbal Counseling, dtd 21 Jun 00
9. Memo for Record on Verbal Counseling, dtd 27 Jun 00
10. Letter of Reprimand, dtd 21 Jul 00
11. Record of Nonjudicial Punishment, dtd 17 Nov 00 w/ UIF
12. Record of Individual Counseling, dtd 26 Jan 01
13. Letter of Reprimand, dtd 23 Feb 01
14. Letter of Reprimand, dtd 1 Mar 01
15. Letter of Reprimand, dtd 26 Mar 01
16. Letter of Reprimand, dtd 5 Apr 01
17. Letter of Reprimand, dtd 4 May 01
18. Record of Vacation of Nonjudicial Punishment, dtd 24 May 01
19. Letter of Reprimand, dtd 5 Nov 01