

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBER SITTING	1 VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
					X
	X				
	X				
					X

ISSUES A02.04	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 13 Dec 2004	CASE NUMBER FD-2004-00265	
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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.

INDORSEMENT		DATE: 12/13/2004
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-2004-00265

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: The Board grants the relief requested.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, but after a thorough review of the record, the Board identified an impropriety as detailed below.

Issue 1. Applicant was discharged for conduct prejudicial to good order and discipline. The records indicated the applicant received an Article 15, two Letters of Reprimand, and a vacation of suspended punishment for misconduct. The misconduct included theft, making a false official statement, failure to go, writing bad checks, and maintaining a romantic relationship with his supervisor's wife. At the time of the discharge, after consulting with legal counsel, member submitted a statement in his own behalf requesting he be retained, or in the alternative that he be given an honorable discharge. He noted he had been negatively impacted by adverse events in his life, including the death of his grandfather. However there was no evidence in the record that the member had availed himself of available services to assist him in dealing with his added stress, such as the chaplaincy, life skills clinic, or family support center. The DRB opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior but was unwilling or unable to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members, and did not condone member's behavior.

Issue 2. During its review, the Board discovered the applicant was entitled to an administrative discharge board (ADB), as his total service (inactive during the delayed enlistment program and active) exceeded 6 years. There was no indication in the record that he was provided an opportunity to contest his discharge at an ADB. The Board determined that in light of the importance of the rights given in a board hearing (including the right to confront and question his accusers, to present evidence and testimony from favorable witnesses and the opportunity to personally present his case and testify before a panel of three disinterested officers), applicant did not receive his full due process rights. There was substantial doubt that the discharge characterization would have remained the same had applicant requested an ADB. Thus, the Board concluded the failure to offer him an ADB was a prejudicial error and the discharge should be upgraded.

CONCLUSIONS: The Discharge Review Board concludes that although the discharge was within the discretion of the discharge authority, it was not consistent with the procedural and substantive requirements of the discharge regulation and the applicant was not provided full administrative due process.

In view of the foregoing findings the Board further concludes the discharge should be upgraded to honorable under the provisions of Title 10 USC, Section 1553.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr George AFB, CA on 3 Jun 91 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 16 Jul 67. Enlmt Age: 17 7/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-41, E-47, G-37, M-70. PAFSC: 46150 - Munitions Systems Specialist. DAS: 13 Sep 90.

b. Prior Sv: (1) AFRes 9 Mar 85 - 3 Jun 85 (2 months 25 days) (Inactive).

(2) Enlisted as AB 4 Jun 85 for 4 yrs. Extended 19 Nov 86 for 13 months. Svd: 4 yrs 5 months 17 days, all AMS. AMN-(APR Indicates): 4 Jun 85-3 Jun 86. A1C-(APR Indicates): 4 Jun 86-3 Jun 87. SRA - 4 Jun 88. Sgt - 1 Jun 89. APRs: 9,9,9,9. EPRs: 4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 21 Nov 89 for 4 yrs. Svd: 1 Yrs 6 Mo 12 Das, all AMS.

b. Grade Status: A1C - 25 Jul 90 (Vacation of Article 15, 22 Oct 90)

c. Time Lost: None.

d. Art 15's: (1) 22 Oct 90, Vacation, George AFB, CA - Article 134. You, did, on or about 14 and 15 Sep 90, make and utter to the George AFB Exchange certain checks, in the amounts of \$50.00 and \$70.00 respectively, for the purchase of goods and services, and did thereafter dishonorably fail to maintain sufficient funds in the Pentagon Federal Credit Union for payment of such checks in full upon their presentment for payment. Reduction to A1C. (No appeal) (No mitigation)

(2) 25 Jul 90, Kadena AB, Japan - Article 121. You did, at Okinawa, Japan, on or about 14 Jun 90, steal one compact disc, of a value of approximately \$12.00, the property of the Fukuhara Music Store. Article 134. You did, at Kadena AB, Okinawa, Japan, on or about 27 Jun 90, wrongfully and unlawfully make under a lawful oath a false statement in substance as follows: that you had stolen one compact disc from an off-base music store one month prior to 27 Jun 90, which statement you did not then believe to be true. Suspended reduction to A1C.

Forfeiture of \$150.00 pay per month for two months.
(No appeal) (No mitigation)

e. Additional: LOR, 29 APR 91 - Engaging in an illicit relationship with a dependent wife.
LOR, 26 JUL 90 - Late for duty.

f. CM: None.

g. Record of SV: 19 Nov 89 - 25 Jul 90 Kadena AB 3 (CRO)

h. Awards & Decs: AFTR, NDSM, AFLSAR, NCOPMER, AFOSLTR, AFGCM, AFOUA, AFAM.

i. Stmt of Sv: TMS: (6) Yrs (2) Mos (25) Das
TAMS: (6) Yrs (0) Mos (0) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Oct 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. Character Reference.
2. Training Certificate.

17AUG04/ia