

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██		GRADE SRA	AFSN/SSAN ██
---	--	------------------	---

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*
					X

ISSUES A93.11 A93.01 A93.07 A01.07 A94.05	INDEX NUMBER A49.00	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 Dec 2004	CASE NUMBER FD-2004-00314
-----------------------------	------------------------------

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCLOSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

* Change primary reason for discharge to Minor Disciplinary Infractions

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: 12/20/2004
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-2004-00314

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

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 and change of reason and authority for discharge are 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.

ISSUES:

Issue 1. Applicant infers discharge was inequitable because it was too harsh, noting he was young and naïve at the time, as well as suffering through a painful divorce that caused him to make some bad decisions and stupid mistakes. The records indicated the applicant received an Article 15, a Letter of Reprimand, two Records of Individual Counseling, verbal counseling, and had an Unfavorable Information File for misconduct. His infractions included failure to go, failure to follow proper leave procedures, financial irresponsibility regarding a past due civilian credit account, and writing five bad checks totaling nearly \$400.00 to the base exchange and commissary. All of the documented infractions used as the basis for discharge occurred over a 6-month period following over 3.5 years of otherwise generally satisfactory service. The records did, however, also disclose that following three alcohol-related incidents in 8 days while deployed overseas, member was referred for psychological testing and alcohol evaluation. While no diagnosis was rendered, he was entered into the Substance Abuse Reorientation and Training Program Track III, and told to attend two Alcoholics Anonymous meetings. Additionally, of three Enlisted Performance Reports, one was rated an overall "3" and his last was an overall referral "2." It related that member's performance migrated between acceptable and unsatisfactory, and that he exerted the minimum effort needed to complete tasks, with little forethought or preparation for tasks at hand. However, the indorser did note that member's performance had declined as he focused on temporary, but highly stressful family and financial problems, and that member had sought personal and financial counseling to resolve the situation, with significant progress made. Indorser also stated member performed in a "highly satisfactory" manner throughout the vast majority of the reporting period. While the records confirmed member had been seen at the Mental Health Clinic for marital problems on one occasion, it failed to disclose whether applicant had sought further assistance from other agencies on base such as the Family Support Center or chaplaincy. And while the Board understands that personal problems may cause a person additional stress, the applicant failed to demonstrate how his problems were unique or unusual compared to other similarly situated airmen, or how these problems were directly related to his disciplinary infractions. The DRB opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior but failed to do so. The Board concluded the misconduct was a significant departure from conduct expected of military members and the characterization of the discharge was appropriate.

(Con't. ----)

Issue 2. Applicant insinuates that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. However, they found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were its basis.

Issue 3. Applicant inferred that he should not be penalized indefinitely for mistakes he made when young, about 10 years ago. The DRB recognized the applicant was 23 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was as old as the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 4. Applicant requests that the primary basis for discharge (unsatisfactory performance) be changed to something else more indicative of his overall service, yet he doesn't suggest to what basis he would like it changed. Applicant concludes that he should not be labeled with "Unsatisfactory Performance." The DRB noted that the primary reason for discharge was Unsatisfactory Performance, specifically irresponsibility in the management of personal finances, which was in accordance with AFI 36-3208, paragraph 5.26.4, in effect at the time of the discharge. A secondary basis for the discharge was misconduct, specifically minor disciplinary infractions, under paragraph 5.49. An involuntary discharge for another reason would only be appropriate when such a change in discharge would serve the best interests of the Air Force or the discharge for cause is not warranted. In this case, the discharge authority considered both reasons for the discharge and all of the evidence in the records, and determined that the most appropriate primary basis was Unsatisfactory Performance. The Board concluded the reason for the discharge received by the applicant was appropriate.

If he can provide additional documented information to substantiate his issues, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any positive contributions to the community.

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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Tinker AFB, OK on 20 Jan 95 UP AFI 36-3208, para 5.26.4 (Unsatisfactory Performance). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 30 Oct 71. Enlmt Age: 18 10/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-85, E-80, G-84, M-61. PAFSC: X1A553 - Aircrew Airborne Radar Systems Journeyman. DAS: 4 Oct 91.

b. Prior Sv: (1) AFRes 11 Sep 90 - 7 Nov 90 (1 month 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Nov 90 for 6 yrs. Svd: 4 Yrs 2 Mo 13 Das, all AMS.

b. Grade Status: SrA - 25 Apr 93
A1C - 01 Jan 91

c. Time Lost: None.

d. Art 15's: (1) 25 Aug 94, Tinker AFB, OK - Article 134. You, did, at or near Nellis AFB, Nevada, on or about 19 Jul 94, make to Nellis AFB Exchange a certain check, in words and figures as follows, to wit: check number 1277, for an amount of about \$10.15, and signed [REDACTED], for the purpose of obtaining United States currency, and did thereafter dishonorably fail to maintain sufficient funds in the First National Bank of Midwest City for payment of such check in full upon its presentment for payment. Article 134. You, did, at or near Nellis AFB, Nevada, on or about 23 Jul 94, make to Nellis AFB Exchange a certain check, in words and figures as follows, to wit: check number 1278, for an amount of about \$100.00, and signed [REDACTED], for the purpose of obtaining United States currency, and did thereafter dishonorably fail to maintain sufficient funds in the First National Bank of Midwest City for payment of such check in full upon its presentment for payment. Article 134. You, did, at or near Nellis AFB, Nevada, on or about 25 Jul 94, make to Nellis AFB Exchange a certain check, in words and figures as follows, to wit: check number 1279, for an amount of about \$100.00, and signed [REDACTED], for the purpose of obtaining United States currency, and did

thereafter dishonorably fail to maintain sufficient funds in the First National Bank of Midwest City for payment of such check in full upon its presentment for payment. Article 134. You, did, at or near Nellis AFB, Nevada, on or about 27 Jul 94, make to Nellis AFB Exchange a certain check, in words and figures as follows, to wit: check number 1281, for an amount of about \$120.00, and signed [REDACTED] for the purpose of obtaining United States currency, and did thereafter dishonorably fail to maintain sufficient funds in the First National Bank of Midwest City for payment of such check in full upon its presentment for payment. Article 134. You, did, at or near Nellis AFB, Nevada, on or about 18 Jul 94, make to Nellis AFB Exchange a certain check, in words and figures as follows, to wit: check number 1276, for an amount of about \$64.44, and signed [REDACTED] for the purpose of obtaining United States currency, and did thereafter dishonorably fail to maintain sufficient funds in the First National Bank of Midwest City for payment of such check in full upon its presentment for payment. Thirty days correctional custody. Suspended reduction to A1C. Suspended forfeiture of \$200.00 pay per month for 2 months. (Appeal/Granted) (No mitigation)

- e. Additional: RIC, 20 DEC 94 - Late for duty.
 LOR, 19 AUG 94 - Failure to follow proper procedures for taking emergency leave.
 RIC, 03 AUG 94 - Financial irresponsibility.
- f. CM: None.
- g. Record of SV: 08 Nov 90 - 13 Aug 92 Tinker AFB 4 (Initial)
 14 Aug 92 - 14 Oct 93 Tinker AFB 3 (Annual)
 15 Oct 93 - 14 Oct 94 Tinker AFB 2 (Annual)REF
- h. Awards & Decs: AFOUA W/DEV, AFGCM, NDSM, SWASM W/DEV, AFLSAR, AFTR.
- i. Stmt of Sv: TMS: (4) Yrs (4) Mos (10) Das
 TAMS: (4) Yrs (2) Mos (13) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 9 Aug 04.

(Change Discharge to Honorable Discharge, and to Change the Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

FD2004-00314

ATCH

1. Applicant's Issues.
2. DD Form 214.

28OCT04/ia



DEPARTMENT OF THE AIR FORCE
552d OPERATIONS GROUP (ACC)
TINKER AIR FORCE BASE, OKLAHOMA

FD 2004-00314

10 January 1995

MEMORANDUM FOR [REDACTED]

FROM: 963 AACS/CC
Tinker AFB OK 73145

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance and Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.26.4 Irresponsibility in Management of Personal Finances, and paragraph 5.49, Minor Disciplinary Infractions. 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 18 Jul 94, you uttered an insufficient funds check, numbered 1276, in the amount of \$64.44, to Defense Commissary Agency, Nellis AFB. On 19 Jul 94, you uttered insufficient funds check, numbered 1277, in the amount of \$10.15, to Nellis AFB Exchange. On 23 Jul 94, you uttered insufficient funds check, numbered 1278, in the amount of \$100, to Nellis AFB Exchange. On 25 Jul 94, you uttered an insufficient funds check, numbered 1279, in the amount of \$100, to Nellis AFB Exchange. On 27 Jul 94, you uttered an insufficient funds check, numbered 1281, in the amount of \$120, to Nellis AFB Exchange. As a result, you received an Article 15, dated 25 Aug 94. Punishment was 30 days correctional custody, reduction to the grade of airman first class (suspended to 24 Feb 95), and forfeiture of \$200 pay per month for 2 months (suspended to 24 Feb 95). You were also given Unfavorable Information File (UIF) action at that time. See Atch 1.

b. On 3 Aug 94, you had a past due account with American General Finance. As a result, you received a Record of Individual Counseling (RIC), dated 3 Aug 94. See Atch 2.

c. On 13 Aug 94, you failed to follow the proper procedures for taking emergency leave. You had been instructed on the proper procedures and yet you disregarded that instruction. As a result, you received a Letter of Reprimand (LOR), dated 19 Aug 94. See Atch 3.

d. On 20 Dec 94, you failed to report for duty at the appointed time of 0730 hours. You told your first sergeant that you had overslept. As a result, you received a Record of Individual Counseling, dated 20 Dec 94. See Atch 4.

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, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made arrangements for you to consult [REDACTED] at Bldg 452, Tinker AFB OK on 11 January 1995, at 1400 hours. If it is necessary to change this appointment time, call [REDACTED] at 405/739-7713. You may consult civilian counsel at your own expense.

Global Power for America

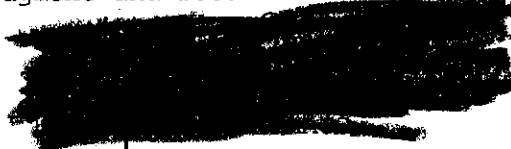
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 13 January 1995, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You are scheduled for a medical examination on 12 January 1995 at 0700 hours, and you report to the Tinker AFB Hospital, Physical Exam Section, on that date for the examination.

7. 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.

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



Attachments

1. Art 15, dtd 25 Aug 94 w/UIF
2. RIC, dtd 3 Aug 94
3. LOR, dtd 19 Aug 94
4. RIC, dtd 20 Dec 94