

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████		GRADE CAPT	AFSN/SSAN ██████████			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBER SITTING <div style="border: 1px dashed black; height: 100px; width: 100%;"></div>		VOTE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A94.05	INDEX NUMBER A67.50	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 15 Dec 2004	CASE NUMBER FD-2004-00324					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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: 12/16/2004		
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-2004-00324

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE: Applicant contends discharge was inequitable because it has made it difficult for him to get employment. The records indicated the applicant received two Article 15s and one Letter of Counseling for going absent without leave, fraternization, and making a false official statement. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. While the Board is sympathetic to the issue of struggling to find employment, they concluded the misconduct was a significant departure from conduct expected of all military members and thus 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

(Former CAPT) (HGH CAPT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Seymour-Johnson AFB, NC UP AFI 36-3206, Chapter 3, para 3.6.4 (Serious or Recurring Misconduct Punishable by Military Authorities). Appeals for Honorable Discharge, and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 15 May 68. Enlmt Age: 17 7/12. Disch Age: 22 8/12. Educ: Bachelor Degree. AFQT: N/A. A-83, E-32, G-55, M-26. PAFSC: R21G1 - Contingency Planner. DAS: 15 Jul 99.

b. Prior Sv: (1) AFRes 17 Dec 85 - 24 Jul 86 (7 months 8 days)(Inactive).

(2) Enlisted as AB 25 Jul 86 for 6 yrs. Reenlisted as SSgt 7 Oct 97 for 6 yrs. Svd: 10 yrs 6 months 12 days, all AMS. A1C-(APR Indicates): 25 Jul 86-24 Jul 87. SrA-(APR Indicates): 23 Jan 88-22 Jan 89. Sgt-(EPR Indicates 23 Jan 89-31 Oct 89. SSgt-(EPR Indicates): 28 Jun 90 - 27 Jun 91. TSgt - 1 Jul 94. APRs: 9,9,9. EPRs: 5,5,5,5,5,5,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Appointed to 2Lt & Ordered to Extended Active Duty on 7 Feb 94. Svd: 4 Yrs 11 Mo 17 Das, all AMS.

b. Grade Status: Capt - 7 Feb 01
1Lt - 7 Feb 99

c. Time Lost: None.

d. Art 15's: (1) 21 Mar 01, Seymour-Johnson AFB, NC - Article 92. You did, in the continental United States, on divers occasions between on or about 1 May 00, and on or about 17 Dec 00, fail to obey a lawful general regulation, to wit: paragraph 5.1.3. AFI 36-2909, dated 1 May 99, by wrongfully dating [REDACTED] You, having knowledge of a lawful order issued by [REDACTED], to wit: not to have contact with [REDACTED] Easterwood for 180 days, an order which it was your duty to obey, did, in the continental United States, on or about 15 Jan 01, fail to obey the same by wrongfully calling [REDACTED] on the telephone. Article 107. You, did, in the continental United States, on or about 12 Jan 01, with intent to deceive, make to [REDACTED] an official statement, to wit: "I am in Raleigh, Nort Carolina" or words to that

effect, which statement was totally false and was then known by you to be so false. Forfeiture of \$500.00 pay per month for 2 months, and a reprimand. (No appeal) (No mitigation)

- (2) 24 Mar 98, Barksdale AFB, LA - Article 86. You did, on or about 25 Nov 97, without authority, go from your approved place of duty. Article 86. You did, on or about 28 Nov 97, without authority, absent yourself from your unit, and remain so absent until you were apprehended on or about 20 Nov 97. Article 133. You did, at or near Bossier City, Louisiana, on or about 25 Nov 97, wrongfully and dishonestly violate a car rental agreement between you and U-Save Auto Rental, Bossier City, Louisiana, to wit: The agreement you signed stated that you were going to drive the rental car to Dallas and return, and that the car was due back to U-Save on 2 Dec 98. You knowingly violated that car rental agreement by driving the car to Virginia, and because of your unauthorized absence and apprehension, the rental company was forced to retrieve the car from Virginia. Under these circumstances your conduct was unbecoming an officer. Suspended forfeiture of \$500.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOC, 29 OCT 97 - Showing poor judgement by calling supervisor on the last day of leave to ask for an extension.

f. CM: None.

g. Record of SV: 07 Feb 97 - 06 Feb 98 Barksdale AFB NE (Annual)REF
 07 Feb 98 - 06 Feb 99 Barksdale AFB YE (Annual)
 07 Feb 99 - 16 Jun 99 Barksdale AFB YE (CRO)
 17 Jun 99 - 16 Jun 00 Seymour-Johnson AFB YE (Annual)
 17 Jun 00 - 21 Mar 01 Seymour-Johnson AFB NE (CRO)REF

h. Awards & Decs: JSAM, AFAM W/1 DEV, MSM, AFAM W/2 DEVS, AFTR W/1 DEV, NDSM, SAEMR, AFLSAR W/3 DEVS, NCOPMER W/1 DEV, AFOUA W/2 DEVS.

i. Stmt of Sv: TMS: (16) Yrs (1) Mos (8) Das
 TAMS: (15) Yrs (6) Mos (0) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 10 Aug 04.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Letter of Conditional Appointment.
4. Government Inquiry Form.
5. United States Postal Service Call-In Notice.
6. Two Character References.

13SEP04/ia

10 August 2004

MEMORANDUM FOR SAF/MIBR

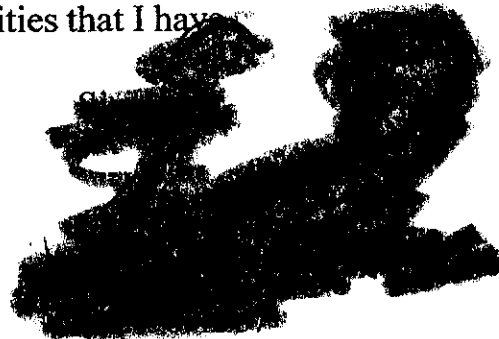
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

SUBJECT: Discharge Upgrade Request

FROM: 

1. I am submitting this letter as an attachment to my application to upgrade or change my discharge to Honorable. I was separated from the Air Force Jan 24, 2002 and have been employed full time since May 2002. While I am otherwise qualified for employment with the federal government my discharge and more specifically the characterization of my separation code (block 26) GKQ prevents me from being given a position. A position that would enable me to support my family and I.
2. Over the past two years I've had a signed contract with the Transportation Security Administration, and offers from the US Postal Service and the Federal Bureau of Prisons (all are attached to this package). To my surprise I've lost all three positions and was not given a reason as to why. Finally, the personnel office from the Federal Bureau of Prisons called and informed me that they will offer me a position, but I need to do the following: (1) Get my discharge upgraded (2) Get my separation code changed and (3) Get the narrative reason for separation changed.
3. Since being separated from the military it has been a challenge to say the least to find sufficient employment and good opportunities to support a family of seven. My only goal would be to secure a better job with greater advancement opportunities that would assist me with those efforts. While some would look at an opportunity to make \$34,000 as not a big deal. However to my family and I, that would make a world of difference. I have learned a great deal about life, responsibility and more importantly accepting responsibility for my actions from my days in the military.

4. I humbly and respectfully ask that you see fit to upgrade or change my discharge to Honorable. This would further enhance my ability to live up to and manage the responsibilities that I have



Attachments

DD Form 214

Contract from TSA

Inquiry of Availability from Federal Bureau of Prisons

Call in notice from Post Office

Letter of Recommendation from SC Department of Corrections

Letter of Recommendation from Life Tabernacle

FD 2004-00324



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS NINTH AIR FORCE (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

JUL 25 2001

MEMORANDUM FOR [REDACTED]

FROM: 9 AF/CC
524 Shaw Dr., Ste 200
Shaw AFB, SC 29152

SUBJECT: Notification of Show Cause Action Initiated Under AFI 36-3206, Chapter 3,
Paragraph 3.6.4

1. I am initiating action against you under AFI 36-3206, Chapter 3, Paragraph 3.6.4, Serious or Recurring Misconduct Punishable by Military Authorities, that requires you to show cause for retention on active duty.

2. I am taking this action because:

a. On or about 25 Nov 97, you left your duty section without permission from any superior officer. (Tab 1a).

b. On or about 28 Nov 97, you were absent without authority until apprehended on 29 Nov 97. (Tab 1a).

c. On or about 25 Nov 97, you wrongfully and dishonorably violated a car rental agreement between you and U-Save Auto Rental, Bossier City, Louisiana. You informed the agent that your intent was to drive to Dallas, Texas. However, on or about 28 Nov 97, you left the Dallas area in your rental automobile with several friends and drove to Virginia. Under the circumstances, that conduct was unbecoming an officer. (Tab 1a).

d. From on or about 1 May 00 to on or about 17 Dec 00, you failed to obey a lawful general regulation by dating an enlisted member, [REDACTED] (Tab 1b).

e. On or about 12 Jan 01, you made a false official statement to [REDACTED], to wit: you told her that you were in Raleigh, NC, when in fact, you were at or near Shaw AFB, SC. (Tab 1b).

3. The least favorable character of discharge that the Secretary of the Air Force may approve in this case is under other than honorable conditions (UOTHC). Attached are copies of documentary evidence supporting this action.

4. Sign and date the attached indorsement acknowledging receipt of this notification memorandum. A copy of the notification memorandum will be provided to you. If you decline to acknowledge receiving this notification memorandum, the officer presenting it to you will indicate on it the date and time that you declined to acknowledge receiving it and it will be included as a part of your case file.

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5. Familiarize yourself with AFI 36-3206, particularly the rights that you have. If you do not request a resignation in lieu of further administrative action, a Board of Inquiry (BOI) will convene as provided in Chapter 7. Contact [REDACTED], Area Defense Counsel, at [REDACTED], Seymour Johnson AFB, to discuss the procedures involved and your rights and options. If you decline counsel, contact [REDACTED], Chief, Military Personnel Flight (4 FW/DPM), 1215 Goodson Street, Seymour Johnson AFB, NC at [REDACTED] for counseling about your rights and options.

6. If you elect to present matters to a BOI, the standard of proof used by the board to make findings is a preponderance of evidence. You may present evidence and argument to rebut the reasons set forth in this notification memorandum or any additional reason or information developed during the BOI proceedings. You also may present other pertinent evidence.

7. Within 10 calendar days after you receive this notification memorandum, you must respond by indorsement to me. If I do not receive the indorsement within the allotted time, I will proceed with further action under AFI 36-3206. Include in your indorsement:

a. Any statement you wish to submit on your own behalf and/or any additional evidence that you wish me to consider. If you are unable to submit your statements or documentary evidence within 10 calendar days after receiving this notification memorandum, you may request more time as allowed under AFI 36-3206. Submit your request for additional time to me. If you do not submit statements or evidence, your failure will constitute a waiver of your right to do so and I will refer your case to the BOI.

b. A statement that [REDACTED], Area Defense Counsel, counseled you and that you fully understand your rights and options in this action. If you decline counsel, so state and indicate that [REDACTED], Chief, Military Personnel Flight, counseled you and that you fully understand your rights and options in this action.

c. A statement that you understand the following regarding recoupment of education assistance, special pay, or bonuses received if you have not completed the period of active duty you agreed to serve:

(1) Recoupment of a portion of education assistance, special pay, or bonus monies received if you voluntarily separate.

(2) Recoupment of a portion of education assistance received if involuntary discharge is for misconduct.

(3) Recoupment of a portion of special pay or bonus monies received regardless of the basis for involuntary discharge.

(4) The recoupment in all cases is an amount that bears the same ratio to the total amount or cost provided to you as the unserved portion of active duty bears to the total period of active duty that you agreed to serve. If you dispute that you are indebted for educational assistance, the BOI, or, if you do not choose or are not entitled to a BOI, an authority appointed by me, will make findings and recommendations concerning the validity of your indebtedness. See AFI 36-3206, paragraphs 4.32 and 4.33, regarding special rules of recoupment.

d. A statement notifying me whether you intend to tender your resignation. If you have tendered your resignation, attach a copy of the resignation.

e. A statement that the area defense counsel or the Chief, Military Personnel Flight, explained separation pay to you and that you understand the eligibility criteria to receive separation pay.

f. Any other pertinent information.

8. In response to this notification memorandum, you may, within 10 calendar days, tender your resignation under AFI 36-3207, Chapter 2, Section B, with the understanding that, if the Secretary of the Air Force accepts your resignation, you may receive a discharge under other than honorable conditions (UOTHC), unless the Secretary of the Air Force determines that you should receive an honorable or under honorable conditions (general) discharge. If the Secretary of the Air Force accepts your resignation, your discharge date will be as soon as possible but no later than 10 calendar days after the date that the MPF receives separation instructions.

9. Action as required by AFI 31-501 has been taken. On 26 April 2001, [REDACTED], established a security information file, which was then evaluated by [REDACTED] (Tab 1c and 1d). You were notified of your security termination and suspension of access on 26 April 2001 (Tab 1e and 1f). Additionally, you turned in your restricted area badge that same day (Tab 1g).

10. You may request excess leave if the Air Force does not require your further participation in processing your case.

[REDACTED]
Lieutenant General, USAF
Commander

Attachments:

1. Documentary Evidence
 - 1a. AF Form 3070, dtd 7 Mar 98
 - 1b. AF Form 3070, dtd 13 Mar 01
 - 1c. Memo for SFS/CC, dtd 26 Apr 01
 - 1d. Memo for 4 LG/CC, dtd 26 Apr 01
 - 1e. AF Form 2587, dtd 26 Apr 01
 - 1f. Memo for [REDACTED], dtd 26 Apr 01
 - 1g. Memo for 4 MSS, dtd 26 Apr 01
2. AFI 36-3206 with Interim Message Changes
3. AFI 36-3207 with Interim Message Changes
4. Acknowledgement Memorandum
5. Recoupment Statement