

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>				GRADE AMN		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
TYPE GEN		PERSONAL APPEARANCE			X		RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES No									
<div style="text-align: center;">X</div>									
<div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 5px;">MEMBER SITTING</div> <div style="border: 1px dashed black; width: 250px; height: 150px; margin-bottom: 5px;"></div>					VOTE OF THE BOARD				
					HON	GEN	UOTHC	OTHER	DENY
									X
									X
									X
									X
ISSUES <div style="text-align: center;">A94.05</div>		INDEX NUMBER <div style="text-align: center;">A67.10</div>			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				
HEARING DATE <div style="text-align: center;">08 Dec 2004</div>		CASE NUMBER <div style="text-align: center;">FD-2004-00350</div>			TAPE RECORDING OF PERSONAL APPEARANCE				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE									
<p>Case heard at Washington, D.C.</p> <p>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</p> <div style="border: 1px dashed black; width: 750px; height: 100px; margin-top: 20px;"></div>									
INDORSEMENT				DATE: 12/8/2004					
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-2004-00350

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: Upgrade of discharge is denied.

ISSUE: Applicant does not contest his discharge. The records indicated the applicant received two Article 15s, a Vacation action under the UCMJ, a Letter of Reprimand, a Record of Individual Counseling and two Memorandums for Record for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The applicant stated he was told his discharge would automatically be upgraded in six months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

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]
(Former AMN) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Cannon AFB, NM on 25 Jul 96 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 17 Nov 73. Enlmt Age: 19 7/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-34, E-81, G-46, M-75. PAFSC: 2E031 - Ground Radar Systems Apprentice. DAS: 20 Mar 94.

b. Prior Sv: (1) AFRes 16 Jun 92 - 23 Jun 93 (1 yr 0 mos 8 das) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 24 Jun 93 for 4 yrs. Svd: 3 Yrs 1 Mo 2 Das, all AMS.

b. Grade Status: AMN - 17 Jul 96 (Article 15, 17 Jul 96)
A1C - Unknown.
AMN - 21 Apr 95 (Vacation, Article 15, 5 Oct 95)

c. Time Lost: None.

d. Art 15's: (1) 17 Jul 96, Cannon AFB, NM - Article 92. You, who knew of your duties, on or about 27 Jun 96, were derelict in the performance of those duties in that you willfully failed to adhere to dormitory standards, as it was your duty to do so. Article 109. You did, on or about 27 Jun 96, willfully and wrongfully damage by pounding against the wall a telephone receiver, the amount of said damage being a value of about \$100.00, the property of AT&T. Reduction to Airman. Suspended forfeiture of \$100.00 pay. (No appeal) (No mitigation)

(2) 05 Oct 95, Vacation, Cannon AFB, NM - Article 111. You, did, operate a vehicle, to wit: a passenger car, in a reckless manner by driving at a speed at or near 90 miles per hour in a 55 mile per hour zone, at night. Reduction to Airman. (No appeal) (No mitigation)

(3) 21 Apr 95, Cannon AFB, NM - Article 92. You did, between on or about 23 Mar 95 and 24 Mar 95, violate a lawful general regulation, to wit: paragraph 8-20a, AFR 125-37, dated 26 Feb 90, by wrongfully possessing a firearm in your vehicle. Article 92. You did, on or

about 24 Mar 95, violate a lawful general regulation, to wit: AFR 125-37 and para 8-19b, Cannon Supplement 1, dated 15 Aug 91, by wrongfully possessing an illegal weapon in the dormitory. Article 92. You, who knew of your duties, on or about 24 Mar 95, were derelict in the performance of those duties in that you negligently failed to adhere to dormitory standards, as it was your duty to do so. Suspended reduction to Airman, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 28 AUG 95 - Failure to comply with applicable dress and appearance standards, late for work, and failure to properly complete Career Development Course(CDC) material in a timely manner.

MFR, 17 AUG 95 - Failure to properly complete CDCs in a timely manner.

MFR, 27 JUL 95 - Late for work.

RIC, 15 JUN 95 - Failure to meet dress and appearance standards.

f. CM: None.

g. Record of SV: 24 Jun 93 - 23 Feb 95 Cannon AFB 3 (Initial)
24 Feb 95 - 23 Feb 95 Cannon AFB 3 (Annual)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (3) Yrs (1) Mos (2) Das
TAMS: (3) Yrs (1) Mos (2) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 26 Aug 04.
(Change Discharge to Honorable)

Issue 1: Was told by 1st Sergeant (sic) and Comanding (sic) Officer that my gen (sic) discharge would be upgraded to honorable 6 months after my discharge. I didn't pursue it. However, I started going to school, but soon had to drop out because I wasn't able to get my GI Bill due to my discharge. I would have to have my discharge upgraded to honorable, if possible. Thank you.

ATCH

1. Congressional Correspondence.

8NOV04/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 27th FIGHTER WING (ACC)
CANNON AIR FORCE BASE, NEW MEXICO

FD 2004-00350

MEMORANDUM FOR AMN [REDACTED]

FROM: 27 OSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, a pattern of misconduct. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50. 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 or about 27 Jun 96, you failed to adhere to dormitory standards and willfully damaged a dormitory telephone, the property of AT&T, as evidenced by an Article 15, dated 17 Jul 96, and an Unfavorable Information File entry, dated 17 Jul 96 (Atch 1a).

b. On or about 15 Sep 95, you operated a motor vehicle in a reckless manner by driving 90 mph in a 55 mph zone at night, as evidenced by a Vacation of Suspended Nonjudicial Punishment, dated 5 Oct 95 (Atch 1b).

c. Between on or about 14 Jun 95 and on or about 17 Aug 95, you failed to comply with applicable dress and appearance standards, you failed to go to your appointed place of duty at the prescribed time, and you failed to turn in your CDCs in the allotted time, as evidenced by a Letter of Reprimand, dated 28 Aug 95, and a Record of Individual Counseling, dated 15 Jun 95 (Atch 1c).

d. Between on or about 23 Mar 95 and on or about 24 Mar 95, you wrongfully possessed a firearm in your vehicle, you wrongfully possessed an illegal weapon in your dorm room, and you failed to adhere to dormitory standards, as evidenced by an Article 15, dated 21 Apr 95, and an Unfavorable Information File entry, dated 26 Apr 95 (Atch 1d).

e. On or about 2 Nov 94, you were involved in an affray on base [REDACTED] and wrongfully possessed ammunition in your vehicle, as evidenced by a Letter of Reprimand, dated 13 Dec 94 (Atch 1e).

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, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Special pay, bonuses, or education 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 [REDACTED] at building 327, ext. 2915 on 26 July 96 at 1030 hours. 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 within 3 workdays from today 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 on your own behalf, your failure will constitute a waiver of your right to do so.
 7. You will complete a medical examination at the 27th Medical Group on 23 Jul 96.
 8. 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 your unit orderly room.
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Attachments

1. Supporting Documents
2. Other Derogatory Data
3. Airman's Acknowledgment