

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 15px; width: 100%;"></div>		GRADE SRA	AFSN/SSAN <div style="background-color: black; height: 15px; width: 100%;"></div>								
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">COUNSEL</td> <td rowspan="3" style="width: 50%; vertical-align: top;">NAME OF COUNSEL AND OR ORGANIZATION</td> <td rowspan="3" style="width: 40%; vertical-align: top;">ADDRESS AND OR ORGANIZATION OF COUNSEL</td> </tr> <tr> <td style="width: 10%;">YES</td> <td style="width: 10%;">No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table>		COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	YES	No		X		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL								
YES	No										
	X										
MEMBER SITTING		VOTE OF THE BOARD									
<div style="border: 1px dashed black; height: 150px; width: 100%;"></div>		HON	GEN	UOTHC	OTHER	DENY					
						X					
						X					
						X					
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ISSUES A92.35 A92.21 A92.19 A94.05		INDEX NUMBER A39.00		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 17 Dec 2004		CASE NUMBER FD-2004-00358									
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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.											
INDORSEMENT				DATE: 12/17/2004							
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, 1E WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002							

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00358

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

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, change of reason and authority for discharge, and change of reenlistment code 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.

If the applicant can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his 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 contributions to the community.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, two Letters of Reprimand, three Letters of Counseling, and one Memorandum for Record for misconduct. The misconduct included taking unapproved leave, late for duty, problems with dependent affecting duty performance, not wearing rank insignia on uniform, operating a non-operational vehicle, and disrespect toward a commissioned officer. 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, especially noncommissioned officers. The DRB also recognized the fact that the applicant had served almost eight years total service before the discharge was initiated, but concluded the applicant's misconduct outweighed the positive aspects of his time in the Air Force. The Board noted the applicant submitted a conditional waiver of his rights to an administrative discharge board hearing and requested an administrative discharge with receipt of no less than a General Under Honorable Conditions discharge. The characterization of the discharge received by the applicant was found to be appropriate.

Issue 2. Applicant states 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. They found the seriousness of the willful misconduct offset the positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case.

Issue 3 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 SrA) (HGH SrA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr MacDill AFB, FL on 5 May 94 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Dec 65. Enlmt Age: 20 5/12. Disch Age: 28 4/12. Educ: HS DIPL. AFQT: N/A. A-50, E-51, G-46, M-35. PAFSC: 3A071 - Information Management Craftsman. DAS: 27 Oct 92.

b. Prior Sv: (1) AFRes 9 Dec 85 - 3 Jun 86 (5 months 26 days) (Inactive).

(2) Enlisted as A1C 4 Jun 86 for 6 yrs. Svd: 5 yrs 0 months 10 days, all AMS. SrA - 4 Oct 88. Sgt-(APR Indicates): 4 Jul 88-3 Jun 89. APRs: 8,8,9. EPRs: 4,4.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 14 Jun 91 for 5 yrs. Svd: 2 Yrs 10 Mo 21 Das, all AMS.

b. Grade Status: SrA - 2 Feb 94 (Article 15, 2 Feb 94)
SSgt - 1 Mar 93

c. Time Lost: None.

d. Art 15's: (1) 2 Feb 94, Bitburg AB, Germany - Article 89. You, did, on or about 6 Dec 93, behave yourself with disrespect toward [REDACTED], your superior commissioned officer, then known by you to be your superior commissioned officer, by saying to her in a loud and argumentative manner, "Who do you think you are...you can't take my baby away from me" and "Now I already told you [REDACTED] that..." or words to that effect. Reduction to SrA. (Appeal/Denied) (No mitigation)

(2) 7 May 93, Bitburg AB, Germany - Article 92. You, did, on or about 28 Apr 93, violate a lawful general regulation, to wit: paragraph 3-8b, USAFER 125-13, dated 20 Dec 90, by operating your vehicle while it was registered nonoperational. Suspended reduction to SrA. Forfeiture of \$150.00 pay per month for two months. (No appeal) (No mitigation)

- e. Additional: LOC, 23 FEB 94 - Not wearing rank insignia on uniform.
 LOC, 19 JAN 94 - Late for duty.
 LOC, 10 DEC 93 - Problems with dependent wife and how it affects his duty performance.
 LOR, 05 APR 93 - Late for duty.
 MFR, 08 MAR 93 - Late for work.
 LOR, 22 FEB 93 - Late for duty and failure to report.
 RIC, 17 DEC 93 - Taking unapproved leave.

f. CM: None.

- g. Record of SV: 30 Oct 90 - 01 Sep 91 Hurlburt Field 4 (CRO)
 02 Sep 91 - 01 Aug 92 Kunsan AB 5 (CRO)
 02 Aug 92 - 01 Aug 93 Bitburg AB 3 (Annual)

h. Awards & Decs: AFCM, AFAM, AFGCM 2/1 DEV, NCOPMER, SAEMR, NDSM, AFTR, AFLSAR, AFOUA, AFOSSTR, AFOSLTR.

- i. Stmt of Sv: TMS: (8) Yrs (4) Mos (27) Das
 TAMS: (7) Yrs (11) Mos (2) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 3 Sep 04.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Training Certificate.
4. Certificate of Appreciation.
5. Certificate of Recognition.
6. Twenty One Letters of Support.
7. Certificate of Appreciation.
8. Certificate of Attendance.

29OCT04/ia

07 SEP 2004

BIAA/RE/2D/EF/2004-00358

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL
FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved

OMB No. 0704-0004

Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	X	AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER		
	Senior Airman					
2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)			5. BOARD ACTION REQUESTED (X one)		
1994/May/05	<input type="checkbox"/> HONORABLE <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS <input type="checkbox"/> BAD CONDUCT (Special court-martial only) <input type="checkbox"/> UNCHARACTERIZED <input type="checkbox"/> OTHER (Explain)			<input checked="" type="checkbox"/> CHANGE TO HONORABLE <input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) <input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:		
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION						
36 Sup (USAFE) Bitburg AB GE						

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

My discharge was inequitable because it was based on three (3) isolated incidents in 7 years 11 months of service with no other adverse action. In my 7 years 3 months of honorable active service I received numerous awards, commendations and achievements as noted on my DD for 214 (atch 1).

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) N/A
AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)

I have worked for two (2) years as a information management specialist for the [redacted] since my separation from active duty service in 1994. As a information management specialist I regulated Certified Public Accounts for the [redacted] in which I received a certificate of completion for effective writing (atch 2). Starting June 1996 I have operated and owned three Childcare Facilities [redacted] with over 200 children enrolled. I have received numerous certificates and awards

9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/>	CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input type="checkbox"/>	I AND/OR (counsel representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
<input type="checkbox"/>	I AND/OR (counsel representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel representative.)

N/A

b. TELEPHONE NUMBER (Include Area Code)

N/A

c. E-MAIL

N/A

d. FAX NUMBER (Include Area Code)

N/A

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) N/A and relationship by marking a box below.

☐ SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)

[redacted]

b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

N/A

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

2004/September/3

CASE NUMBER (Do not write in this space.)

FD2004-00358

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

I have received the following Certificates and Appreciations: a Certificate of Appreciation for dedication to children and families (atch 3), a certificate of recognition for the handicapped who want to work program October 2002 (atch 4), Volunterred Jan 14, 2003 to speak to 21 kindergarden children about Dr Martin Luther King and received 21 letters of thanks from the each student (atch 5), received a plaque of appreciation in 2003 from a family I helped to aquire housing after a fire left them without a place to stay (atch 6), and received a certificate of training from the [REDACTED] Childcare Food Program June 2004 for overseeing a Federal Program without error (atch 7).

16. REMARKS (If applicable)

Also please change the narrative reason for seperation to SECRETARIAL AUTHORITY. Please change reentry code to WAIVERABLE ONE (i.e. 3K). Also please change character of service in accordance with above changes.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR [REDACTED]

MAR 23 1994

FROM: 36 SUPS

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline, according to AFR 39-10, under the provisions of section H paragraph 5-47b. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. You did, on or about 17 Feb 94, fail to comply with AFR 35-10 by not wearing your rank insignia on your gortex jacket for which you received an LOC dated 23 Feb 94 and UIF dated 01 Mar 94.

b. You did, on or about 06 Dec 93, behave with disrespect toward your superior commanding officer, for which you received an Article 15 dated 02 Feb 94.

c. You did, on or about 18 Jan 94, fail to go to your appointed place of duty at the appointed time, for which you received an LOC dated 19 Jan 94.

d. You did, on or about 28 Apr 93, violate a lawful general regulation by operating your vehicle while it was registered nonoperational for which you received an Article 15 dated 7 May 93.

e. You did, on or about 05 Apr 93, fail to go to your appointed place of duty at the appointed time, for which you received a UIF dated 09 Apr 93 and an LOR dated 05 Apr 93.

f. You did, on or about 08 Mar 93, fail to go to your appointed place of duty at the appointed time, as evidenced by Memo for Record dated 08 Mar 93.

g. You did, on or about 22 Feb 93, fail to go to your appointed place of duty at the appointed time for which you received an LOR dated 22 Feb 93.

h. You did, on or about 30 Nov 92 to on or about 7 Dec 92, take unapproved leave following authorized emergency leave for which you received an LOC dated 17 Dec 92.

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending that you receive an under other than honorable conditions discharge. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.

e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for a medical examination at the Bitburg Hospital, Physical Exam section at 0730 on 25 Mar 94.

6. Military legal counsel [REDACTED], bldg 112) has been obtained to assist you. An appointment has been scheduled for you to consult him at 1400 hours on 23 Mar 94. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing within seven (7) workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, Attachment 2. A copy of AFR 39-10 is available for your use in the Unit Orderly Room.

9. Execute the attached acknowledgement and return it to me immediately.

[REDACTED]
Commander

Attachments:

- 1. LOC - 23 Feb 94 ✓
- 2. AF Form 1058 - 01 Mar 94
- 3. AF Form 3070 - 02 Feb 94
- 4. LOC - 19 Jan 94 ✓
- 5. AF Form 3070 - 07 May 93
- 6. AF Form 1058 - 09 Apr 93
- 7. LOC - 10 Dec 93 ✓
- 8. AF Form 3070 - 07 May 93

FD 2004-00358

10. LOR - 05 Apr 93 ✓
11. LOR - 22 Feb 93 ✓
12. Memo for Record - 08 Mar 93
13. LOR - 22 Feb 93
14. LOC - 17 Dec 92
15. Airman's Acknowledgement
16. Airman's Statements
17. Other derogatory information