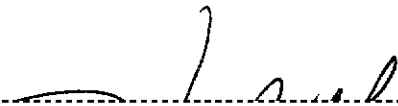


# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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 YES No		NAME OF COUNSEL AND OR ORGANIZATION				ADDRESS AND OR ORGANIZATION OF COUNSEL				
X										
MEMBER SITTING						VOTE OF THE BOARD				
						HON	GEN	UOTHC	OTHER	DENY
										X
										X
										X
										X
										X
ISSUES A93.21		INDEX NUMBER A67.10				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 28 Dec 2004		CASE NUMBER FD-2004-00367								
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.										
<div style="text-align: center; font-size: 2em; margin-bottom: 10px;">  </div> <div style="border: 1px solid black; width: 100%; height: 40px;"></div>										
INDORSEMENT				DATE: 12/28/2004						
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-2004-00367**

**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.

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 was discharged for minor disciplinary infractions. The records indicated the applicant received three Letters of Reprimand, a Letter of Counseling, and had a civilian conviction for misconduct. His infractions included failure to go, a leave policy violation, shoplifting, and abusing his Security Forces position off base. At the time of discharge, member consulted counsel but waived his right to submit statements in his own behalf. The DRB opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior but was unable or unwilling to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge was appropriate.

Issue 2. The applicant noted he was told his discharge could be upgraded in six months. The DRB noted that while a discharge may be upgraded after six months, an 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.

Issue 3. Applicant notes his desire to receive veterans' health benefits for stress fractures incurred in Basic Military Training School (BMTS). While the medical record confirms that member was periodically evaluated for his stress fractures, which were discovered by a bone scan conducted while he was in technical training, he was never sent to a medical evaluation board as a result of this problem, it was never deemed to be unfitting, and it was not raised as a potential bar to administrative discharge during his separation physical, nor by the applicant at the time of his discharge. Therefore the Board concluded this issue is without merit and that the reason for the discharge received by the applicant was 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

[REDACTED]  
(Former AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Holloman AFB, NM on 12 Dec 91 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 8 Oct 70. Enlmt Age: 19 10/12. Disch Age: 21 2/12. Educ: HS DIPL. AFQT: N/A. A-58, E-55, G-55, M-51. PAFSC: 81132 - Law Enforcement Specialist. DAS: 12 May 91.

b. Prior Sv: (1) AFRes 24 Aug 90 - 22 Jan 91 (5 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 23 Jan 91 for 4 yrs. Svd: 0 Yrs 10 Mo 20 Das, all AMS.

b. Grade Status: AMN - 23 Jul 91

c. Time Lost: None.

d. Art 15's: (1) None.

e. Additional: LOR, 12 NOV 91 - Misuse of authority.  
Civilian Court Judgment, 6 Nov 91 - Shoplifting.  
LOR, 21 OCT 91 - Failure to report as ordered.  
LOR, 04 JAN 91 - Late for work and lying.  
LOC, 31 MAY 91 - Failure to go.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (3) Mos (19) Das  
TAMS: (0) Yrs (10) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Aug 04.  
(Change Discharge to Honorable)

Issue 1: I was informed that I could upgrade to an "Honorable" discharge six months after date of seperation (sic). I wish to recieve (sic) Veteran Health Benefits for stress fractures incured (sic) during Basic Training.

FD2004-00367

ATCH  
None.

23SEP04/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 49TH FIGHTER WING (TAC)  
HOLLOMAN AIR FORCE BASE NM 88330-5000

FD 200400367

REPLY TO  
ATTN OF: SPS/CC

27 November 1991

SUBJECT: Letter of Notification

TO: [REDACTED]

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFR 39-10, paragraph 5-46. If my recommendation is approved, your service will be characterized as General. I am recommending that your service be characterized with a General Discharge.

2. My reasons for this action are that:

a. On or about 22 October 1991, you misused your authority and misrepresented yourself to Otero County Sheriffs Deputies, as evidenced by 833 SPS/CCQ letter dated 12 November 1991. For this offense you received a Letter of Reprimand.

b. On or about 6 November 1991, you shoplifted, as evidenced by Municipal Court, County of Otero, City of Alamogordo, New Mexico document # 91-11619 dated 12 November 1991. For this offense you received a fine of \$100.00.

c. On or about 11 October 1991, you failed to report to the orderly room after leave in a timely manner, as evidenced by 833 SPS/SPO-B letter dated 21 October 1991. For this offense you received a Letter of Reprimand.

d. On or about 3 June 1991, you failed to go at the prescribe place and time, as evidenced by a letter from your law enforcement trainer dated 4 June 1991. For this offense you received a Letter of Reprimand.

e. On or about 23 May 1991, you failed to attend a mandatory squadron appointment, as evidence by SPOL letter dated 31 May 1991. For this offense you received a Letter of Counseling.

*Readiness is our Profession*

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The Commander exercising SPCM jurisdiction or 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.

3. 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 the Area Defense Counsel on 27 November 1991 at 0900. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me three days from the date of this letter 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 have completed a medical examination on 18 November 1991.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the orderly room.

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



USAF

3 Atch

1. Airman's Receipt of Letter of Notification
2. Supporting Documents for the Reasons for Discharge
3. Documents Containing Derogatory Information which are

not Listed in Letter of Notification