

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE A1C		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>							
TYPE GEN		PERSONAL APPEARANCE				X RECORD REVIEW							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">COUNSEL</td> <td style="width: 50%; text-align: center;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td style="text-align: center;">YES</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	No	X		ADDRESS AND OR ORGANIZATION OF COUNSEL					
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION												
YES	No												
X													
MEMBER SITTING						VOTE OF THE BOARD							
						HON	GEN	UOTHC	OTHER	DENY			
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ISSUES A01.13 A92.21 A93.07 A93.09		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 28 Dec 2004		CASE NUMBER FD-2004-00373											
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: 100%; height: 40px; margin-top: 20px;"></div>													
INDORSEMENT													
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-2004-00373

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 a pattern of misconduct, discreditable involvement with military or civil authorities. The records indicated the applicant received three Letters of Reprimand, and was arrested three times by civilian authorities for misconduct. He had also had an Unfavorable Information File, had been placed on the Control Roster, and had a promotion deferral. His only Enlisted Performance Report was rated an overall referral "2" and chronicled his contempt for authority and failure to follow instructions and orders. His infractions included abuse of a government vehicle after advised to use it only for official business, driving on a suspended license after expressly told not to, and abusing a dormitory telephone to make long distance calls at government expense and then failing to admit it until more than 3 months later when investigation was about to reveal his involvement. Additionally, his civilian arrests involved public intoxication, assault and battery, and communicating threats to his estranged spouse after a protective order had been issued. Applicant now notes that none of the latter incidents were "proven in a court of law" and the "courts dismissed all charges." Nevertheless, member was discharged on the basis of his aberrant, volatile behavior. Because he was a Security Forces officer, he was unable to continue to bear arms or perform his duties in view of his behavior and its risks. His misconduct disrupted the good order and discipline of his unit and the civilian community. The legal review of the discharge notes that such discharge need not be based exclusively on civilian convictions to be appropriate. The chain of command felt that based on his misconduct in an earlier assignment, coupled with his multiple arrests by civilian authorities for well documented problematic behavior, discharge was the best course of action. Additionally, member was diagnosed with a borderline personality disorder so severe it interfered with his ability to perform his military duties, yet did not rise to the level of warranting a medical separation. And while administrative discharge based on this personality disorder was contemplated, it was not appropriate due to the seriousness of member's misconduct. The DRB opined that through the military administrative actions and civilian arrests, the applicant had ample opportunities to change his negative behavior and was unwilling or unable to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members and it was appropriate to sever member's military status due to his unsuitability for further military service. Based on his misconduct, the characterization of the discharge was appropriate.

Issue 2 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, this is not a matter of inequity or impropriety in his discharge, and none was suggested or found in the course of the record review. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 3. Applicant noted he was going through a difficult period in his life, with his mother's terminal illness and death, and a divorce. While it is understandable that a person in such circumstances experiences additional stress, applicant failed to demonstrate how his circumstances were unique or unusual, or more distressing than those of similarly situated airmen who complete their terms of enlistment without misconduct. Applicant also failed to demonstrate that he sought assistance for his additional stress through available base agencies such as the chaplaincy, Family Support Center, Mental Health Clinic, or his chain of command. Thus the Board found these issues of insufficient mitigation or extenuation to warrant an upgrade.

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 A1C) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Travis AFB, CA on 23 May 96. UP AFI 36-3208, para 5.50 (Pattern of Misconduct - Discreditable Involvement with Military or Civil Authorities). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Jan 75. Enlmt Age: 19 1/12. Disch Age: 21 4/12. Educ: HS DIPL. AFQT: N/A. A-67, E-49, G-64, M-58. PAFSC: 3P032 - Law Enforcement Apprentice. DAS: 18 Mar 96.

b. Prior Sv: (1) AFRes 14 Mar 94 - 26 May 94 (2 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 May 94 Svd: 1 Yrs 11 Mo 27 Das, all AMS.

b. Grade Status: A1C - 23 Dec 95
Amn - Unknown

c. Time Lost: None.

d. Art 15's: None.

e. Additional: Incident Report, 7 APR 96 - Communicating threats to spouse.
Incident Report, 3 DEC 96 - Civil arrest for battery.
Crime Report, 19 JAN 95 - Civil arrest for public intoxication.
LOR, 01 APR 95 - Making unauthorized phone calls.
LOR, 31 MAR 95 - Driving with a suspended driver's license and disobeying a lawful order.
LOR, 24 FEB 95 - Disobeying a lawful order.

f. CM: None.

g. Record of SV: 27 May 94 - 26 Jan 96 Bellows AFS 2 (Initial) REF

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (10) Das
TAMS: (1) Yrs (11) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 13 Sep 04.
(Change Discharge to Honorable)

FD2004-00373

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

29NOV04/ia



DEPARTMENT OF THE AIR FORCE
60TH SECURITY POLICE SQUADRON (AMC)

22 APR 1996

MEMORANDUM FOR [REDACTED]

FROM: 60 SPS/CC
270 Elmira Avenue, Bldg 850
Travis AFB CA 94535-2857

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force a Pattern of Misconduct, Discreditable Involvement with Military or Civil Authorities. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.1. If my recommendation is approved, your service will be characterized as general, honorable, or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 18 Feb 95, you were specifically instructed by your supervisor to use a government vehicle for government official business only. However, on 22 Feb 95, you failed to obey by using a government vehicle to conduct personal business. This was the second incident you deliberately disobeyed a lawful order. For this, you received a letter of reprimand (LOR) dated 24 Feb 95.

b. On or about 19 Mar 95, you were driving your POV with a suspended State of California driver's license. You were previously instructed not to operate your vehicle until your license was reissued. This was the third time you disobeyed a lawful order. For this, you received a LOR on 31 Mar 95.

c. On or about 31 Mar 95, you admitted to making unauthorized long distance phone calls at the dormitory totaling \$221.45. You knew the matter was under investigation, yet, you never admitted to your responsibility until such time as the uncovering of your involvement was imminent. For your misconduct, you received a LOR on 1 Apr 95.

d. On or about 19 Jan 96, you were arrested by the City of Vacaville Police Department for public intoxication, in violation of Section 647(f) of the State of California Penal Code. This was evidenced by Crime Report D96-621.

d. On or about 12 Mar 96, you were arrested by the City of Vacaville Police Department for battery, in violation of Section 242 of the State of California Penal Code. You were held in the Solano County jail on \$1,600.00 bail. This is evidenced by Incident Report I - 9603-29 (DD Form 1569) and Solano County Sheriff Department's Arrest Report, Case D-96-2414.

e. On or about 7 Apr 96, you communicated threats to your spouse as evidenced by Incident Report I - 9604-33 and City of Vacaville Police Department Case 96-3291.

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.

l. Derogatory data, other than action by courts-martial or under Article 15, UCMJ: (1) Letter of Reprimand (LOR) dated 24 Feb 95 for misuse of government vehicle; (2) LOR dated 31 Mar 95 for driving with a suspended State of California driver's license; (3) LOR dated 1 Apr 95 for making unauthorized long distance phone calls; (4) Crime Report D96-621 dated 19 Jan 96 for public intoxication, in violation of Section 647(f) of the State of California Penal Code; (5) DD Form 1569, Incident Report I9603-29 dated 12 Mar 96 for battery, in violation of Section 242 of the State of California Penal Code; (6) DD Form 1569, Incident Report I - 9604-33 dated 7 Apr 96 for communicating a threat.

m. Medical or other data meriting consideration: Mental Health Evaluation dated 10 Apr 96.

n. The member does not hold an appointment as a reserve commissioned or warrant officer.

3. Actions required under AFI 31-501 are not applicable.

4. I do not recommend probation and rehabilitation (P&R) IAW AFI 36-3208, Chapter 7. After a review of his entire service record, I have determined [REDACTED] not a viable candidate for P&R. He was counseled on numerous occasions by superiors regarding acceptable conduct and behavior. Due to [REDACTED] outbursts and comments toward his wife coupled with conduct which resulted in responses by the City of Vacaville Police Department, the squadron had been unable to assign him to regular Security Police duties for a period of three months. His aberrant behavior is particularly critical when you consider that a Security Policeman is required to carry a weapon in the performance of his duties. He was admitted to the Mental Health Clinic, DGMCC for evaluation and was subsequently referred to attend a self-management class at Family Advocacy. His off-duty conduct has adversely affected this squadron's ability to utilize him in a manner commensurate to his training. His acts of misconduct tended to disrupt order, discipline, and morale within the military and civilian community. Finally, the impact of [REDACTED] continued service would be detrimental to the overall mission of the squadron and Travis AFB. Discharge is appropriate.

[REDACTED]

Attachments:

1. Cy of Notification Ltr, w/4 Atchs
2. Airman's Acknowledgment
3. Airman's Statement w/ or w/o Atch
4. Medical Examination
5. EPR
6. RIP