

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100px; height: 15px; margin-top: 5px;"></div>		GRADE AMN	AFSN/SSAN <div style="background-color: black; width: 80px; height: 15px; margin-top: 5px;"></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="vertical-align: top;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td style="width: 10%; text-align: center;">YES</td> <td style="width: 10%; text-align: center;">No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</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								
<div style="border: 1px dashed black; width: 250px; height: 120px; margin-bottom: 5px;"></div>		HON	GEN	UOTHC	OTHER	DENY				
						X				
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						X				
ISSUES A94.05	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 13 Dec 2004	CASE NUMBER FD-2004-00388									
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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: 700px; height: 100px; margin-top: 20px;"></div>										
INDORSEMENT										
DATE: 12/14/2004										
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-2004-00388

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.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and a Vacation action under the UCMJ for repeatedly lying for personal gain. 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.

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]
[REDACTED]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Langley AFB, VA on 30 Oct 96 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 22 Sep 74. Enlmt Age: 18 2/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-56, E-67, G-74, M-32. PAFSC: 3C031 - Communications-Computer Systems Operator. DAS: 16 Nov 93.

b. Prior Sv: (1) AFRes 2 Dec 92 - 18 Jul 93 (7 months 17 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Jul 93 for 4 yrs. Svd: 3 Yrs 3 Mo 11 Das, all AMS.

b. Grade Status: Amn - 25 May 96 (Article 15, 20 Sep 96)
A1C - 19 Nov 94
Amn - 19 Jan 94

c. Time Lost: None.

d. Art 15's: (1) 20 Sep 96, Vacation, Langley AFB, VA - Article 86. You did, on or about 13 Sep 96, without authority, fail to go at the time prescribed to your appointed place of duty. Article 107. You did, between on or about 12 Sep 96, with intent to deceive, make an official statement to [REDACTED] and [REDACTED], to wit: that you had gone to the hospital and canceled your physical therapy appointment and then gone to Orthopedics, which statement was totally false and was then known by you to be so false. Reduction to Amn. (No appeal) (No mitigation)

(2) 25 May 96, Langley AFB, VA - Article 107. You did, on or about 13 Mar 96, with intent to deceive, make an official statement to [REDACTED] to wit: that you were scheduled for Honor Guard practice and needed to be released from duty, which statement was totally false, and was then known by you to be so false. Article 107. You did, between on or about 29 Jan 96, and on or about 18 Mar 96, with intent to deceive, make an official statement to [REDACTED], to wit: that you are a member of the Langley Air Force Base Honor Guard, which statement was included in your

Enlisted Performance Report, which statement was totally false and was then known by you to be so false. Suspended reduction to Airman. Forfeiture \$100.00 pay per month for two months, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 19 Jul 93 - 18 Mar 95 Langely AFB 5 (Initial)
19 Mar 95 - 18 Mar 96 Langely AFB 5 (Annual)

h. Awards & Decs: AFTR, NDSM, AFOUA W/1 DEV, AFGCM.

i. Stmt of Sv: TMS: (3) Yrs (10) Mos (29) Das
TAMS: (3) Yrs (3) Mos (12) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 11 May 04.
(Change Discharge to Honorable)

Issue 1: I am, writing to request an upgrade Air Force. I believe if you review all of my EPR's (sic) AND that you will find that I was a worthy Airman. This request is primary for piece (sic) of mind and for my sons to show them that their father served his country and served it HONORABLY. I know I was not perfect, that I made mistakes but I also feel that I was Unjustly (sic) discharged for underlying circumstances. I went through 2.5 spotless years in the Air Force under several NCO's without ANY issue or incident. Then it was just so strange when I changed NCO's (sic) to go from respected Airman, 5 on all EPR's (sic) Airman, 92% on AFSC test Airman, to all of the things that my new Senior NCOIC (██████████) accused me of doing or not doing. So as a young Airman instead of continuing to fight the never-ending accusations and the loss of rank (promoted to SrA - never pinned, then demoted from A1C to Amn) I asked that I be discharged before I was completely kicked out under less than honorable condition. I respectfully request that I be upgraded to Honorable not because I deserve it but because I earned it. My intentions were to serve my country for 20 plus as my father did in the Army, I was born in the military and up until October 30 1996 that was the only life I knew.

ATCH

None.

6OCT04/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

FD 2004-00388

MEMORANDUM FOR AMN [REDACTED]

16 OCT 1996

FROM: 1 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.49. If my recommendation is approved, your service will be characterized with either an honorable or an under honorable conditions (general) discharge. I am recommending that your service be characterized with an under honorable conditions (general) discharge.

2. My reasons for this action are:

a. You did, on or about 13 March 1996, with intent to deceive, make an official statement to [REDACTED] to wit: that you were scheduled for Honor Guard practice and needed to be released from duty, which statement was totally false, and was then known by you to be so false.

b. You did, on or about 29 January 1996 and on or about 18 March 1996, with intent to deceive, make an official statement to [REDACTED] to wit: that you are a member of the Langley Air Force Base Honor Guard, which statement was included in your Enlisted Performance Report, which statement was totally false and was then known by you to be false. For this misconduct and the misconduct described in paragraph 2a, you received nonjudicial punishment on 17 May 1996 and an unfavorable information file was established on 29 May 1996 (Attachments 1 and 2). Punishment consisted of reduction to Airman (E-2), forfeiture of \$100.00 pay per month for two months, and 30 days extra duty. However, the reduction to Airman was suspended until 22 November 1996, unless sooner vacated.

c. You did, on or about 13 September 1996, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: [REDACTED], Langley Air Force Base, Virginia.

d. You did, on or about 12 September 1996, with intent to deceive, make an official statement to [REDACTED] and [REDACTED] to wit: that you had gone to the hospital and canceled your physical therapy appointment and then gone to Orthopedics, which statement was totally false and was then known by you to be false. For this misconduct and the misconduct described in paragraph 2c, the suspended portion of your nonjudicial punishment was vacated on 27 September 1996 (Attachment 3).

Global Power For America

Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. 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 and any special pay, bonus, or education assistance funds may be subject to recoupment.

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 [REDACTED] Area Defense Counsel, [REDACTED] at 1400 hours on 11 Oct 1996. 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 by 21 Oct 1996 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 been scheduled for a medical examination. You must report to the 1st Medical Group, Physical Exam Section at 10:30 hours on 17 Oct 1996 and an additional exam will be scheduled if necessary.

7. 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 the unit orderly room.

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


Commander

Attachments:

1. Article 15, 17 May 96
2. UIF Entry, 29 May 96
3. Article 15 Vacation Action, 27 Sep 96
4. Additional supporting memoranda