

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFFILIATION
PERSONAL APPEARANCE	<b>X</b>	<b>RECORD REVIEW</b>

COUNSEL	YES	No	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
		<b>X</b>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	<b>X</b>				
	<b>X</b>				
	<b>X</b>				
	<b>X</b>				
					<b>X</b>

ISSUES	<b>A01.48</b>	INDEX NUMBER	<b>A67.10</b>	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
				<b>1</b> ORDER APPOINTING THE BOARD
				<b>2</b> APPLICATION FOR REVIEW OF DISCHARGE
				<b>3</b> LETTER OF NOTIFICATION
				<b>4</b> 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	<b>08 Mar 2005</b>	CASE NUMBER	<b>FD-2004-00413</b>	
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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.

Names and votes will be made available to the applicant at the applicant's request.

<b>INDORSEMENT</b>	<b>DATE: 3/8/2005</b>
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2004-00413**

**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:** The Board grants the requested relief.

The Board finds that there was an impropriety which justifies a change in the characterization of the applicant's discharge.

**ISSUE:** The records indicated the applicant received three Letters of Reprimand and one Letter of Counseling for misconduct. The misconduct included missed mandatory formation, failure to go, failure to obey an order, and late for duty. The applicant's misconduct occurred on 5, 7, 8 and 9 April 1996, respectively. On 10 April 1996, he was served with three Letters of Reprimand and one Letter of Counseling for these incidents. Without any further misconduct, he was notified of his impending discharge on 15 May 1996. According to AFI 36-3208, paragraphs 5.2.1. and 5.2.1.5., airmen should be given an opportunity to overcome deficiencies before a commander recommends discharge for minor disciplinary infractions. The Board opined that it appears that the command gave the applicant no opportunity to be rehabilitated from the misconduct before initiating discharge action. In fact, the record indicates the applicant was overcoming the deficiencies as there was no further misconduct noted before initiation of the discharge action. Therefore, the DRB concluded that the separation authority's consideration of the misconduct, in this case, was improper.

**CONCLUSIONS:** The Board concluded that the applicant's discharge was not consistent with the procedural and substantive requirements of the discharge regulation and that the improprieties in this record require a change to his service characterization. The Board concluded that the applicant's service is more accurately reflected by an Honorable discharge, under the provisions of Title 10, USC 1553.

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 Buckley ANGB, CO on 14 Jun 96 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 May 73. Enlmt Age: 19 6/12. Disch Age: 23 0/12. Educ: HS DIPL. AFQT: N/A. A-72, E-63, G-25, M-51. PAFSC: 1C651 - Space Systems Operations Journeyman. DAS: 3 Feb 93.

b. Prior Sv: (1) AFRes 10 Dec 92 - 15 Dec 92 (6 days) (Inactive).

(2) Enlisted as A1C 16 Dec 92 for 4 yrs. Svd: 3 Yrs 3 Mos 5 Days, all AMS. SrA - 16 Nov 95. EPRs: 4,3.

ART 15: 4 May 95, Buckley ANGB, CO - Article 92. You, who knew of your duties, on or about 10 Apr 95, was derelict in the performance of your duties as a data systems supervisor, in that you willfully misused the keyboard at your position contrary to the operations training you previously received, by randomly hitting the keys causing the keyboard to lock up. You, a data systems supervisor, having knowledge of a lawful order issued by [REDACTED] to no longer randomly hit keys on the keyboard at your position, an order which it was your duty to obey, did on or about 10 Apr 95, Buckley ANGB, fail to obey the same by willfully hitting the keys causing the keyboard to lock up. Suspended reduction to Airman. (Appeal/Withdrawn) (No mitigation)

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 22 Mar 96 for 6 yrs. Svd: 0 Yrs 2 Mo 23 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 10 APR 96 - Missed mandatory formation.  
LOR, 10 APR 96 - Failure to go.  
LOR, 10 APR 96 - Failure to obey an order.  
LOC, 10 APR 96 - Late for duty.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (3) Yrs (6) Mos (5) Das  
TAMS: (3) Yrs (6) Mos (0) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 7 Oct 04.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.

9DEC04/ia

OCT 13 2004

AA FD2004-00413

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

Form Approved OMB No. 0704-0004 Expires Aug 31, 2006

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

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.

Form section 1: APPLICANT DATA. Includes fields for Branch of Service (Air Force selected), Name, Grade/Rank (E-4), Date of Discharge (96/MAR/25), Discharge Characterization (General/Under Honorable Conditions selected), and Board Action Requested (Change to Honorable selected).

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) I believe I'm entitled to utilize my educational benefits, which I earned for my service which was initially an Honorable Discharge, but was changed to

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) 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.)

9. TYPE OF REVIEW REQUESTED (X one)

Form section 9: TYPE OF REVIEW REQUESTED. Includes checkboxes for 'CONDUCT A RECORD REVIEW OF MY DISCHARGE...', '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.', and '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.)

Form section 10: COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.) Includes fields for telephone number, e-mail, and fax number.

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) and relationship by marking a box below.

Form section 12: CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.) Includes checkboxes for Spouse, Widow, Widower, Next of Kin, Legal Representative, and Other. Includes fields for telephone number and fax number.

Form section 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... more than 5 years, or both.) Includes fields for signature, date signed (04/10/07), and case number (FD-2004-00413).

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

A General Discharge under Honorable Conditions. I feel it should have been upgraded, because the minor Disciplinary Interactions that were imposed upon my conduct were inequitable for the Incident involved. I conceded to the responsibility of these minor interactions, but they do not merit my current Discharge, due to the fact that my first discharge was honorable (then I realized). <sup>With this upgrade I can't use it for schooling.</sup> These minor interactions occurred PRIOR TO MY Honorable Discharge. I'd like to further my Education. I humbly & Respectfully Request This.

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

16. REMARKS (If applicable)

By upgrading my Discharge you would have helped my Economic welfare in going to school and landing a better job than the one I have now. My Departure was misjudged on my part. So I have to move forward. Hopefully, by having this accomplished, I can finally rectify this episode of my military career.

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

21ST SPACE WING (AFSPC)

FD 2004-00413

MEMORANDUM FOR [REDACTED]

15 MAY 1996

FROM: 2 SWS/CC

SUBJECT: Letter of Notification

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, paragraph 5.49. 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 that:

a. On or about 9 Apr 96, you violated a general order given by [REDACTED] Director of operations, to appear at a mandatory formation, DO call. For this conduct, you received a Letter of Reprimand, dtd 10 Apr 96. (Atch 1).

b. On or about 8 Apr 96, you failed to report for WAPS testing a mandatory appointment. For this conduct, you received a Letter of Reprimand, dtd 10 Apr 96. (Atch 2).

c. On or about 7 Apr 96, you violated a verbal order given by [REDACTED] as well as a written notification given by the dormitory manager. For this conduct, you received a Letter of Reprimand, dtd 10 Apr 96. (Atch 3).

d. On or about 5 Apr 96, you failed to report for duty at the appointed time. For this conduct, you received a Letter of Counseling, dtd 10 Apr 96. (Atch 4).

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.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult the Area Defense Counsel, on 21 MAY 96 at 1100 hours. 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 NLT 1600 hours on 28 MAY 96, 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. A separation physical is not required. However, you must still report to the Peterson Clinic to complete DD Form 2697 - Report of Medical Assessment. You have been scheduled for an appointment on PA at PA hours. (10 MAY 96)

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 orderly room.

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

  
USAF  
Squadron Section Commander

Attachment

1. Letter of Reprimand, dtd 10 Apr 96
2. Letter of Reprimand, dtd 10 Apr 96
3. Letter of Reprimand, dtd 10 Apr 96
4. Letter of Counseling, dtd 10 Apr 96
5. Airman's Receipt of Notification Memorandum