

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 SRA		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>			
TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE			RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	No							
	<input checked="" type="checkbox"/>							
MEMBER SITTING				VOTE OF THE BOARD				
				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
ISSUES A92.19 A94.05		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 17 May 2005		CASE NUMBER FD-2004-00436						
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. via video-teleconference with St. Augustine, Florida.</p> <p>Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>								
INDORSEMENT				DATE: 5/17/2005				
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-2004-00436

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

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video-teleconference between St. Augustine, Florida, and Andrews AFB, Maryland on 17 May 2005.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of 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.

ISSUE:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The applicant testified that his family was under extraordinary stress at the time of his discharge and that his decision not to fight the discharge action was due to his desire to return to the U.S. and help his wife with her business. The applicant explained the circumstances surrounding his writing over \$5,000 worth of bad checks. The applicant also testified that he had not committed the offenses of dereliction of duty and larceny of basic allowance for subsistence. His commander found that he had committed those offenses. The Board was not persuaded by his explanation of how he came to write bad checks and the relationship between the supposed reasons for the checks being dishonored (that his wife was robbed and took money from their personal account and used it to supplement their business account) and the timing of the checks which were dishonored. The records showed that during his career the applicant received three nonjudicial punishment actions and a vacation of suspended punishment. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior and/or convince his chain of command that he had not, in fact, committed criminal acts. His current regret for his past eagerness to obtain a discharge is an insufficient basis to overturn his discharge and characterization of service. The Board is unable to speculate on the outcome had he chosen to fight the discharge at the time. The Board concluded his 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.

Issue 2. Applicant implies 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 any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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 SRA) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Incirlik AB, Turkey on 9 Jun 00 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 18 May 62. Enlmt Age: 20 2/12. Disch Age: 38 0/12. Educ: HS DIPL. AFQT: N/A. A-29, E-60, G-50, M-20. PAFSC: V4A071 - Medical Administration Craftsman. DAS: 26 Jun 99.

b. Prior Sv: (1) Enlisted ANG as Amn 2 Aug 82 for 6 yrs. Svd: 1 yr 6 months 12 days, of which AMS is 6 months 12 days.

(2) Enlisted USAF as Amn 15 Feb 84 for 4 yrs. Reenlisted as SrA 4 Oct 87 for 4 yrs. Extended 9 May 91 for 21 months. Svd: 9 yrs 1 month 21 days, all AMS. AB - 25 Apr 84 (Article 15, 28 Aug 84). Amn-(APR Indicates): 15 Feb 84-14 Feb 85. A1C - 25 Jul 85. SrA-(APR Indicates): 2 Jul 86-29 Jul 87. Sgt-(APR Indicates): 30 Jul 87-8 Aug 88. SSgt-(EPR Indicates): 1 Apr 92-31 Mar 93. APRs: 7,9,9,9,9. EPRs: 4,3,5,5.

ART 15's: (1) 31 Aug 84, Cannon AFB, NM - Article 92. You, on or about 23 Aug 84, having knowledge of your duties, were derelict in the performance of those duties in that you, by culpable inefficiency, failed to properly process and file medical documentation, as it was your duty to do. Forfeiture of \$100.00, and 14 days extra duty. (No appeal) (No mitigation)

(2) 28 Aug 84, Vacation, Cannon AFB, NM - Article 92. You, on or about 23 Aug 84, having knowledge of your duties, were derelict in the performance of those duties in that you, by culpable inefficiency, failed to properly process and file medical documentation, as it was your duty to do. Reduction to AB. (No appeal) (No mitigation)

(3) 25 Apr 84, Sheppard AFB, TX - Article 134. Preliminary investigation has disclosed that you did, on or about 9 Apr 84, with intent to defraud, falsely pretend to own a meal card, then knowing that the pretenses were false, and by means thereof did wrongfully and unlawfully obtain from [REDACTED] Sheppard AFB, TX, a lunch of some value. Article 134. Further investigation has disclosed that you did, on or about 10 Apr 84, with intent to defraud, falsely pretend to own a meal card, then knowing

that the pretenses were false, and by means thereof did wrongfully and unlawfully obtain from [REDACTED], Sheppard AFB, TX, a breakfast of some value. Suspended reduction to AB. Seven days correctional custody (suspended). (No appeal) (No mitigation)

3. SERVICE UNDER REVIEW:

a. Reenlisted as SSgt 6 Apr 93 for 6 yrs. Extended 29 Jan 95 for 6 months. Extended 24 Apr 95 for 3 months. Extended 17 Aug 98 for 10 months. Svd: 7 Yrs 2 Mo 3 Das, all AMS.

b. Grade Status: SrA - 4 Apr 00 (Article 15, 4 Apr 00)

c. Time Lost: None.

d. Art 15's: (1) 4 Apr 00, Incirlik AB, Turkey - Article 92. You, who knew or should have known of your duties, from on or about 1 Sep 99 to on or about 29 Feb 00, were derelict in the performance of those duties in that you willfully failed to notify the housing office when your dependents departed Incirlik AB, Turkey, as it was your duty to do. Article 121. You, did, between on or about 1 Sep 99, and on or about 29 Feb 00, steal United States currency by unlawfully receiving Basic Allowance for Subsistence (BAS), of a value of about \$1369.80, the property of the United States government. Article 123a. You, did, on divers occasions between on or about 16 Sep 99 and on or about 30 Oct 99, with intent to defraud and for the procurement of lawful currency, make and utter to the Financial Services Office certain checks, drawn upon the Bank of America, check numbers 351, 432, 441, and 442, of a total amount of \$4,960.00, and signed [REDACTED]. [REDACTED], then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with the Bank of America for the payment of said checks in full upon their presentment. You, did, on or about 8 Sep 99, with intent to defraud and for the procurement of lawful currency or procurement of items of value, wrongfully and unlawfully make and utter to the Incirlik Consolidated Club, a certain check, drawn upon the Bank of America, in words and figures as follows, to wit: Check number 425, in the amount of \$300.00, dated 5 Sep 99, and signed [REDACTED] then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with the Bank of America for the payment of the said check in full upon its presentment. Reduction to SrA. Forfeiture of \$500.00 pay per month for 2 months (suspended). Reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 1 Apr 93 - 31 Mar 94 Andrews AFB 4 (Annual)
 1 Apr 94 - 31 Mar 95 Andrews AFB 5 (Annual)
 1 Apr 95 - 29 Feb 96 Kunsan AB 4 (CRO)
 1 Mar 96 - 28 Feb 97 Howard AFB 5 (Annual)
 1 Mar 97 - 28 Feb 98 Howard AFB 4 (Annual)
 1 Mar 98 - 28 Feb 99 Howard AFB 4 (Annual)
 1 Mar 99 - 28 Feb 00 Incirlik AB 3 (Annual) REF

h. Awards & Decs: AFCEM, AFOUA W/1 OLC, AFGCM W/3 OLCS, NDSM, AFOSSTR, AFLSAR W/3 OLCS, NCOPMER, AFTR.

i. Stmt of Sv: TMS: (17) Yrs (10) Mos (8) Das
 TAMS: (16) Yrs (10) Mos (8) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 21 Oct 04.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. AF Form 31, Airman's Request for Early Separation, 15 Apr 99.
3. Copy of AFI 36-3208, Chapter 3, Section 3.20.2.
4. 39 MDOS/SGOKH, Hardship Discharge Recommendation for [REDACTED]
 22 Dec 99.
5. 39 Wing/HC, Hardship Separation Recommendation, Undated.
6. Letter of Appreciation.
7. Two Letters of Recommendation.

12JAN05/ia

FD 2004-00436

21 October 2004

TO: SAF/MIBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

FROM: [REDACTED]
[REDACTED]
[REDACTED]

SUBJECT: Discharge Upgrade

To whom it may concern:

1. I, [REDACTED] respectfully request my discharge be upgraded from General Discharge Under Honorable Conditions to an Honorable Discharge.
2. This request is supported by my successful and faithful service to my country and United States Air Force for 16 years 3 months and 25 days, prior to my Air Force career, I was a member of the Louisiana Air National Guard for 6 months 12 days for which my separation evaluations speaks of how I served the Louisiana Air National Guard with pride and dignity.
3. While assigned to the 39th Medical Support Squadron of Incirlik ABS Turkey, I relocated my spouse to Warner Robins, Ga as my follow on assignment was to Warner Robins Air Force Base. While in Warner Robins my wife opened a vending service which proved to be extremely hazardous to her safety for during the course of the day she was required to go to various locations and pull large quantities of cash from the vending machines which placed her in the position of

possible been robbed. All of the past and present employees were well aware of her activities, unfortunately she was faced with task of terminating some of her employees, these employees in retaliation for been fired threaten my spouse's life she even went as far as to reporting it to the local police department whom informed her that nothing could have been done unless a crime was committed her place of business was robbed twice within a 6 month period. Unfortunately my spouse could not just up and close the business because of contract obligations to her clients as well as her supplier, for her to close the business would have invited legal actions against my spouse and myself, not to mention bankruptcy and as a member of the Air Force I was always taught to live up to your financial obligation.

4. To resolve the matter I first attempted to apply for palace chase for which I did not qualify, I then requested an early termination of my assignment and also a humanitarian assignment both of which were denied. After conferring with Mental Health and the base chaplain they both jointly agreed to submit a letter on my behalf to the Squadron Commander for an administrative discharge which was promptly denied. At that point I felt as though I had no recourse and knowing my spouse's life was in danger I felt as though I needed to be there to protect my family.
5. After the stress of being turned down for every request to join my family and to protect them, I was told that the only way to join my family would be accept an

administrative discharge. Desperate for resolution, I accepted my squadron commander's offer and signed the administrative discharge under extreme duress. It was my understanding that I would be able to request an upgrade at a later date. I was advised by my Area Defense Counselor that my past military performance would be considered and these one time incidences would be weighted against my 16 years of excellent service to my country.

6. Since 14 Feb 1984 I have been apart of the Air Force family, my ultimate goal was to retire from the Air Force. During my 16 + year career with the Air Force my performance has always been above average as reflected in Evaluations Performance Report.

Sincerely

A large, dark, irregular blacked-out area covering the signature and possibly the name of the sender.



DEPARTMENT OF THE AIR FORCE
39TH WING (USAFE)

FD 2004-00436

MEMORANDUM FOR SRA [REDACTED]

25 APR 00

FROM: 39 MDSS/CC

SUBJECT: Notification Memorandum -- Board Hearing

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 AFPD 36-32 and AFI 36-3208, under the provisions of Section H, paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

Between 1 Sep 99 and 29 Feb 00, you continued to live in base housing and receive Basic Allowance for Subsistence when you were not entitled to do so. Furthermore, between 8 Sep 99 and 30 Oct 99, you made and uttered worthless checks to the Financial Services Office and the Consolidated Club for the total amount of \$5,260.00. For these infractions, you received Non-Judicial Punishment. (Atch 1)

3. This action could result in your separation with an Under Other Than Honorable Conditions Discharge. I am recommending that you receive a General 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 and will probably be denied enlistment in any component of the armed forces.

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. You must report to 39 MDG Physical Exams at 1000 hrs on 26 APR 00 for the examination.

6. Military legal counsel, [REDACTED] Bldg 948, 6-6908, has been obtained to assist you. An appointment has been scheduled for you to consult him on 26 APR 00 at 0800 hrs. 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 AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air

i. Record of disciplinary actions:

Current Enlistment: Art 15, dated 10 Apr 00 (Atch 1 to Notification Letter)

Previous Enlistments: Art 15, dated 25 Apr 00 – Art 134 – Obtaining Services Under False Pretenses;

Vacation Action, dated 31 Aug 84 – Art 92 – Dereliction of Duty;

Article 15, dated 5 Sep 89 – Article 92 – Dereliction of Duty

j. Overall ratings on enlisted performance report (from most recent to earliest):

4, 4, 5, 4, 5

k. Favorable communications, citations, or awards: AF Commendation Medal, AF Good Conduct Medal (3OLC), National Defense Svc Medal, AF Overseas Short Tour, AF Overseas Long Tour, NCO PME, AF Training Ribbon.

l. Derogatory data, other than action by courts-martial or under Article 15, UCMJ: No additional data

m. Medical or other data meriting consideration: None.

n. Member does not hold an appointment as a Reserve commissioned or warrant officer.

3. Before recommending this discharge I have considered all possible actions available to me as the commander and have determined that this action is in the best interest of [REDACTED] and the United States Air Force. His lack of regard in following the rules and policies of the Air Force was detrimental to good order and discipline. [REDACTED] actions were a serious breach of military discipline and highly corrosive to morale. Discharge is warranted in this case.

4. I do not recommend probation and rehabilitation (P&R) according to Chapter 7.

Commander

Attachments:

1. Copy of Notification Memorandum w/atchs
2. Airman's Receipt of Notification Memorandum
3. Airman's Response
4. Airman's Statement of Conditional Waiver
5. Medical Clearance Letter
6. EPRs
7. Records Review Rip
8. Other Derogatory Data