

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

GRADE

A1C

TYPE HON

X

PERSONAL APPEARANCE

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES

No

X

MEMBER SITTING

VOTE OF THE BOARD

HON

GEN

UOTHC

OTHER

DENY

X**

X**

X**

X

X

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

CASE NUMBER

15 Feb 2005

FD-2004-00443

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.

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

* CHANGE RE CODE

+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

INDORSEMENT

DATE: 2/17/2005

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-2004-00443

GENERAL: The applicant appeals to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and exercised this right. She was represented by [REDACTED] attorney at law (her father).

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 the evidence of record combined with the testimony of the applicant substantiates an inequity that justifies a change of discharge authority and reenlistment code.

ISSUE:

Issue. Applicant contends her discharge was inequitable because it was too harsh. The records indicated the applicant received numerous evaluation forms showing her shortcomings in her career field and demonstrating her unsatisfactory performance. The records also clearly indicate multiple problems with the training she received in an attempt to remedy her poor performance. Due to frequent changes in trainers, the subjective (and differing) nature of the evaluations she received regarding her performance, the difficulty in scheduling her for training due to inadequate numbers of qualified personnel to control air traffic and train at the same time, and the subsequent use of low traffic times to conduct her training, it appears to the board that she was not offered a fair opportunity to improve her performance to bring it up to Air Force standards. Because of this conclusion, the Board believes it is in the interest of justice to change the reason for her discharge to Secretarial Authority and to change her reenlistment code to allow her to reenlist in the Air Force and serve her country as she desires to do.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process. Nonetheless, while technically proper, there was a substantial inequity in the Air Force's failure to provide her with a full and fair opportunity to receive the necessary training to allow her to succeed in her job.

In view of the foregoing findings, the Board further concludes that the reason for the discharge is more accurately described as Secretarial Authority under the provisions of Title 10, USC 1553, and that her reenlistment code should be changed to 3K.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a HON Disch fr McGuire AFB, NJ on 30 Dec 99 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance). Appeals for Change in RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 20 Nov 77. Enlmt Age: 19 5/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-46, E-97, G-84, M-76. PAFSC: 1C131 - Air Traffic Control Apprentice. DAS: 3 May 97.

b. Prior Sv: (1) AFRes 25 Apr 97 - 9 Sep 97 (4 months 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 10 Sep 97 for 6 yrs. Svd: 2 Yrs 3 Mo 21 Das, all AMS.

b. Grade Status: A1C - 25 Oct 97

c. Time Lost: None.

d. Art 15's: None.

e. Additional: MEMO, 02 SEP 99 - Unsatisfactory Performance.
305 OSS 1, 21 AUG AND 26 AUG 99 - Unsatisfactory Performance.
305 OSS 1, 13 AUG AND 18 AUG 99 - Unsatisfactory Performance.
305 OSS 1, 20 APR AND 24 APR 99 - Unsatisfactory Performance.
305 OSS 1, 15 MAR AND 17 MAR 99 - Unsatisfactory Performance.
OSS/OSAT 4, 12 FEB AND 17 FEB 99 - Unsatisfactory Performance.
25 JAN 99 - Failed to achieve Position Certification.

f. CM: None.

g. Record of SV: 10 Sep 97 - 9 May 99 McGuire AFB 4 (Initial)
10 May 99 - 7 Dec 99 McGuire AFB 2 (HAF Dir) REF

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

i. Stmt of Sv: TMS: (2) Yrs (9) Mos (6) Das
TAMS: (2) Yrs (3) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 29 Oct 04
(Change Discharge to RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. 305 OSS Form 1/Training Evaluation dated 29 May 98-26 Aug 99.
3. AF Form 910, 10 Sep 97 thru 9 May 99.
4. AF Form 931, 27 Jul 99.

7JAN05/ia

NOV 02 2004

RE, RP FD-2004-00443

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

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

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

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.

a. BRANCH OF SERVICE (X one)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
	E-3				

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
19993012	<input checked="" type="checkbox"/> HONORABLE	CHANGE TO HONORABLE
	GENERAL/UNDER HONORABLE CONDITIONS	CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	UNDER OTHER THAN HONORABLE CONDITIONS	CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	BAD CONDUCT (Special court-martial only)	<input checked="" type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
305th OSS	UNCHARACTERIZED	Secretarial Authority
McGuire AFB NJ	OTHER (Explain)	

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 7.)

It is believed that there was an impropriety in the discharge. First of all, the fact that [redacted] experienced difficulty during her training as an Air Traffic Controller will not be denied. [redacted] was noted as being in "Experiencing Difficulty in Training" (EDIT) status during the time frame of 25FEB99 thru 11MAY99 while completing her Radar Arrival Controller training. [redacted] did successfully overcome her deficiencies, received her Arrival Control Certification and removed from EDIT status.

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.)

Memorandum for record dated 30AUG99
305 OSS Form 1 / Training Evaluations dated 29MAY98 - 26AUG99
AF Form 910 covering the time period 10SEP97 thru 09MAY99
AF Form 931 dated 27JUL99

9. TYPE OF REVIEW REQUESTED (X one)

<input type="checkbox"/>	CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input checked="" type="checkbox"/>	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.
<input type="checkbox"/>	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.)

10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)

b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
---------------------------------	--------------------------------	----------------------------------	--------------------------------------	---	--

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)

b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

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 under this title or imprisoned not more than 5 years, or both.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.)
	20041029	FD-2004-00443

14. CONTINUATION OF ITEM 8, ISSUES (If applicable)
 removed from EDIT status. During the remainder of [REDACTED] training she was never placed back into EDIT status and had only received two unsatisfactory weekly performance evaluations (305 OSS Form 1 - attached). The Chief of Air Traffic Controller Training as noted in the attached memorandum, however, refuted one of the unsatisfactory evaluations. It seems unjustified that a discharge for Unsatisfactory Performance for failure to progress in on-the-job-training would come at a time when [REDACTED] to her knowledge, was indeed progressing with her training. [REDACTED] knew that her skills needed to continue to improve while in OJT but was never placed under the impression that there were any severe deficiencies in her overall performance as an Apprentice Air Traffic Controller. There was never an occasion that [REDACTED] was formally counseled to make her aware of OJT deficiencies. If deficiencies did indeed exist, the lack of formal counseling did not allow her the opportunity to overcome these deficiencies. Nor did she have knowledge that there was a potential for an Unsatisfactory Performance discharge. However, if [REDACTED] was indeed not progressing in OJT the opportunity to cross-train into another AFSC was not afforded to her. This opportunity was afforded to others that did not succeed in their Air Traffic Control OJT while [REDACTED] was at McGuire AFB. For these reasons it is believed that there was impropriety and inequity in the handling of this particular discharge.

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

16. REMARKS (If applicable)

REQUEST CHANGE IN REENLISTMENT CODE TO ALLOW REENTRY
 INTO MILITARY

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



FD2004-00443

DEPARTMENT OF THE AIR FORCE

305th Operations Support Squadron (AMC)

MEMORANDUM FOR AIRMAN FIRST [REDACTED]

13 DEC 1999

FROM: 305 OSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Failure to progress in on-the-job training. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.26.3. If my recommendation for discharge is approved, your service will be characterized as Honorable or General. I am recommending that your service be characterized as Honorable.

2. My reasons for this action are:

a. Between 5 Sep 98 and 7 Sep 98, you twice failed to deconflict aircraft during simulator training. For this, your supervisor rated your performance as "unsatisfactory," counseled you, and directed you to perform additional simulator training.

b. On 25 Jan 99, you failed to achieve Position Certification in the Arrival Position because you failed to maintain proper separation between aircraft and failed to take prompt action to remedy your mistake. Your trainer had to intervene and issue break out instructions to the local controller. As a result of your failure, your supervisor provided you with additional simulator training opportunities.

c. Between 12 Feb 99 and 17 Feb 99, you again failed to achieve Position Certification in the Arrival Position. During this period, you failed to maintain proper aircraft separation, exhibited poor situational awareness, communicated poorly with your team members, and demonstrated unfamiliarity with governing directives. As a result of your failure, your supervisor provided you with additional simulator and live training, directed you to review your training materials, and encouraged you to show more self-discipline and responsibility.

d. Between 15 and 17 Mar 99, you demonstrated a lack of situational awareness and lack of knowledge of proper procedures in your handling of a C-141 and a DC 10 aircraft. For this, your supervisor rated your performance as "unsatisfactory" and directed you to either maintain situational awareness at all times or to ask for assistance.

e. Between 20 and 24 Apr 99, you repeatedly failed to obtain proper aircraft spacing and failed to take prompt action to resolve potentially conflicting flight paths. You also admitted you had difficulty accurately spacing approaching aircraft. For this, your supervisor rated your performance as "unsatisfactory" and directed you to review pertinent publications. To further assist you, your supervisor demonstrated numerous scenarios on the marker board, gave you different techniques to calculate "miles to fly" for conflicting aircraft and provided guidance on how to adjust arrival flight paths before it became necessary to use emergency recovery procedures.

f. Between 13 Aug 99 and 18 Aug 99, you transferred an aircraft to another controller without first obtaining their approval. You also descended one aircraft in front of an approaching aircraft where the closure rate between the two was 370 knots. Your supervisor intervened to correct the latter situation by directing one of the aircraft to perform an "expedite descend" to avoid a collision. For this, your supervisor rated your performance as "unsatisfactory," directed you to review pertinent publications, and scheduled you for additional simulator training.

g. Between 21 Aug 99 and 2 Sep 99, you failed to maintain proper separation distance between two aircraft. You failed to recognize the problem and your supervisor intervened and directed the aircraft away from each other. The aircraft approached to within three miles of each other. You also stated you wanted to transfer out of this career field. For this, your supervisor rated your performance as "unsatisfactory", suspended your Position Certification, and removed you from training.

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, 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.

4. 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 with [REDACTED] the Area Defense Counsel, at Bldg 2906, first floor, on 14 DEC 99 at 0900 hrs. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 16 DEC 99 (3 workdays from the date of this memorandum) unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. 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.

7. You have been scheduled for a medical examination. You must report to FAMILY PRACTICE on 19 NOV 99 (date) at 0800 (time).

8. 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 squadron orderly room.

[REDACTED]
[REDACTED] Col, USAF
Commander

Attachments:

1. 305 OSS Form 1, 5-7 Sep 98
2. 305 OSS/OSAT Form 4, 25 Jan 99
3. Memo, [REDACTED] 25 Jan 99
4. 305 OSS Form 1, 31 Jan-5 Feb 99
5. 305 OSS/OSAT Form 4, 12 & 15 Feb 99
6. Statement, [REDACTED] 26 Feb 99
7. Memo, [REDACTED] 25 Feb 99
8. 305 OSS, Form 1, 15-17 Mar 99
9. 305 OSS Form 1, 20-24 Apr 99
10. 305 OSS Form 4, 14 May 99
11. 305 OSS Form 1, 13-18 Aug 99
12. 305 OSS Form 1, 21-26 Aug 99
13. Memo, [REDACTED] 2 Sep 99
14. Airman's Acknowledgment of Notification Memorandum