

# AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

|  |          |                                     |                                     |  |   |                                     |               |       |      |
|--|----------|-------------------------------------|-------------------------------------|--|---|-------------------------------------|---------------|-------|------|
| (TIAL)   |          |                                     |                                     |  |   |                                     |               |       |      |
| TYPE GEN   |          | PERSONAL APPEARANCE                 |                                     |  | <b>X</b>  |                                     | RECORD REVIEW |       |      |
| COUNSEL  |          | NAME OF COUNSEL AND OR ORGANIZATION |                                     |  | ADDRESS AND OR ORGANIZATION OF COUNSEL  |                                     |               |       |      |
| YES  | No       |                                     |                                     |  |   |                                     |               |       |      |
|  | <b>X</b> |                                     |                                     |  |   |                                     |               |       |      |
| MEMBER SITTING   |          |                                     |                                     |  | VOTE OF THE BOARD   |                                     |               |       |      |
|  |          |                                     |                                     |  | HON   | GEN                                 | UOTHC         | OTHER | DENY |
|  |          |                                     |                                     |  |   |                                     |               |       | X    |
|  |          |                                     |                                     |  |   |                                     |               |       | X    |
|  |          |                                     |                                     |  |   |                                     |               |       | X    |
|  |          |                                     |                                     |  |   |                                     |               |       | X    |
|  |          |                                     |                                     |  | X   |                                     |               |       |      |
|  |          |                                     |                                     |  | 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<br><b>06 Jul 2005</b>   |          |                                     | CASE NUMBER<br><b>FD-2004-00479</b> |  |   |                                     |               |       |      |
| 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> <p>Names and votes will be made available to the applicant at the applicant's request.</p> |          |                                     |                                     |  |   |                                     |               |       |      |
| SIGNATURE OF RECORDER  |          |                                     |                                     |  | SIGNATURE OF BOARD PRESIDENT  |                                     |               |       |      |
|  |          |                                     |                                     |  |   |                                     |               |       |      |
| INDORSEMENT  |          |                                     |                                     |  | DATE: 7/6/2005  |                                     |               |       |      |
| TO: SAF/MRBR<br>550 C STREET WEST, SUITE 40<br>RANDOLPH AFB, TX 78150-4742   |          |                                     |                                     |  | FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL<br>AIR FORCE DISCHARGE REVIEW BOARD<br>1535 COMMAND DR, EE WING, 3RD FLOOR<br>ANDREWS AFB, MD 20762-7002 |                                     |               |       |      |

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2004-00479**

**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 and it was an isolated incident. The records indicated the applicant received three Article 15s, the first one for writing bad checks, being drunk and disorderly and assault. The second one was for adultery and the third was for violating a no contact order. In addition, he received a Letter of Reprimand for financial irresponsibility. Although the applicant did not raise it as a contention, the Board did note an impropriety in the processing of the applicant's paperwork. The commander improperly included a Record of Individual Counseling and a Letter of Counseling that occurred prior to the service under review (the applicant reenlisted on 22 May 96) as among the bases for discharge which should not have been considered with regard to the applicant's characterization of service. However, after reviewing and considering the total evidence of misconduct which was properly considered by the separation authority, the Board concluded this error was not prejudicial and therefore harmless, having no adverse impact on the outcome of the separation authority's decision. 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]  
(Former A1C) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Lackland AFB, TX on 24 Jan 97 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 27 Oct 64. Enlmt Age: 19 0/12. Disch Age: 32 2/12. Educ: HS DIPL. AFQT: N/A. A-53, E-68, G-71, M-78. PAFSC: 4Y071 - Dental Assistant Craftsman. DAS: 3 Dec 94.

b. Prior Sv: (1) AFRes 1 Nov 83 - 21 May 84 (6 months 21 days) (Inactive).

(2) Enlisted as AB 22 May 84 for 4 yrs. Reenlisted as SrA 22 Feb 88 for 4 yrs. Reenlisted as SSgt 19 Nov 90 for 6 yrs. Extended 5 Jul 94 for 1 month. Svd: 11 yrs 11 months 29 days, all AMS. Amn-(APR Indicates): 22 May 84-21 Apr 85. A1C-(APR Indicates): 22 Apr 85-21 Apr 86. SrA - 22 May 87. Sgt-(APR Indicates): 8 Mar 88-7 Mar 89. SSgt-(EPR Indicates): 8 Mar 90-7 Mar 91. APRs: 9,9,9,9,9. EPRs: 5,5,4,4,5,5,5.

ART 15: 16 Jan 86, Lackland AFB, TX - Article 92. You did, on or about 3 Jan 86, having knowledge of your duties, were derelict in the performance of those duties in that you willfully failed to observe the dormitory visitation hours. Forfeiture of \$150.00 pay, and 14 days extra duty. (No appeal) (No mitigation).

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 22 May 96 for 4 yrs. Svd: 0 Yrs 8 Mo 2 Das, all AMS.

b. Grade Status: A1C - 16 Sep 96

c. Time Lost: None.

d. Art 15's: (1) 24 Sep 96, Incirlik, Turkey - Article 134. You, a married man, did, on divers occasions between on or about 17 Aug 96, wrongfully have sexual intercourse with SrA [REDACTED] a woman not your wife. Forfeiture of \$150.00 pay per month for two months. (No appeal) (No mitigation)

(2) 16 Sep 96, Incirlik, Turkey - Article 134. You did, on or about 8 Jul 96 and 16 Jul 96, make and utter to the 39<sup>th</sup> Comptroller Squadron certain checks, in words and

figures as follows, to wit: check #1478, dated 8 Jul 96, in the amount of \$200.00, and check #1480, dated 16 Jul 96, in the amount of \$500.00, for the purpose of obtaining cash, and did thereafter dishonorably fail to maintain sufficient funds in the Security Service Federal Credit Union for payment of such checks in full upon their presentment for payment. You did, on or about 15 Jul 96, make and utter to SrA [REDACTED] a certain check, in words and figures as follows, to wit: check #1479, dated 15 Jul 96, in the amount of \$250.00, for the purpose of obtaining cash and did thereafter dishonorably fail to maintain sufficient funds in the Security Service Federal Credit Union for payment of such check in full upon its presentment for payment. Article 128. You were, on or about 25 Aug 96, drunk and disorderly. You did, on or about 25 Aug 96, wrongfully communicate to SrA [REDACTED] a threat to injure him by stating you would take his gun and kill him or words to that effect. You did, on or about 25 Aug 96, wrongfully communicate to SSgt [REDACTED] a threat to kill him, or words to that effect. You did, on or about 25 Aug 96, unlawfully push A1C [REDACTED] in the back with your hands. You did, on or about 25 Aug 96, assault SrA [REDACTED] who then was and was then known by you to be a person then having and in the execution of Air Force security police duties, by spitting on his arm and chest areas. You did, on or about 25 Aug 96, commit an assault upon Amn [REDACTED] by charging at him with a dangerous weapon, likely to produce grievous bodily harm, to wit: an open-blade pocket knife. Reduction to SrA, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 26 AUG 96 - Financial irresponsibility.  
                   LOC, 01 MAY 96 - Failing to use proper judgement in  
   handling situation.  
                   RIC, 11 AUG 95 - Domestic violence.

f. CM: None.

g. Record of SV: 17 Oct 95 - 9 May 96 Incerlik AFB 4 (CRO)

h. Awards & Decs: AFAM, AFOUA W/2 BOLCS, AFGCM W/3 BOLCS, NDSM, SWASM W/1 BSS, AFOSLTR, AFLSAR W/2 BOLCS, NCOPMER W/1 BOLC.

i. Stmt of Sv: TMS: (13) Yrs (2) Mos (24) Das  
                   TAMS: (12) Yrs (8) Mos (3) Das

- 4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 29 Nov 04.  
     (Change Discharge to Honorable)

Issue 1: The reason that I am requesting an upgrade is that the incident that caused me to lose a career that I treasured very much was an isolated incident during my tour in Turkey. It was a costly error in judgement on my part. I have learned from my mistake.

I know that my behaviour cost me a career that I can never recapture. It brought shame to my unit, the Air Force & myself.

If I could take it back, I would. Please consider my request for an upgrade. Your cooperation would be most appreciated.

**ATCH**

None.

7FEB05/ia

FD 2004-00479

DEPARTMENT OF THE AIR FORCE  
39TH WING (USAFE)

MEMORANDUM FOR A1C [REDACTED]

6 NOV 1996

FROM: 39 DS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct according to AFI 36-3208, Chapter 5, Section H, Paragraph 5.50. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

On 25 October 1996, you received an Article 15 for failure to obey a lawful order, which punishment consisted of reduction to airman first class.

On 4 October 1996, you received an Article 15 for adultery, which punishment consisted of forfeiture of \$150.00 pay per month for two months.

On 4 October 1996, you received an Article 15 for writing bad checks to the 39th Comptroller Squadron and a fellow member of your squadron, being drunk and disorderly, communicating a threat, assault consummated by a battery, simple assault, and assault with a dangerous weapon likely to produce grievous bodily harm, which punishment consisted of a reduction to the grade of senior airman, restriction to Incirlik Air Base, Turkey for 30 days, and 30 days extra duty.

On 26 August 1996, you received a Letter of Reprimand (LOR) for writing a bad check to the Accounting and Finance Office in the amount of \$200.00.

On 1 May 1996, you received a Letter of Counseling (LOC) for abusing the leave policy.

On 11 August 1995, you received a Record of Individual Counseling for assaulting your wife.

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive a UOTHC discharge. The commander exercising GCM jurisdiction 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. Any special pay, bonus or education assistance funds may be subject to recoupment.

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, and
- 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 the 39 MDG Physical Exams Section at 0730 hrs on 7 Nov 96 for the examination.

6. Military legal counsel, Capt. [REDACTED] Building 885, 6-6962, has been obtained to assist you. An appointment has been scheduled for you to consult her on \_\_\_\_\_ at \_\_\_\_\_ hrs in Building 885. 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 Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.


7. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you chose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

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 Base Information Library.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005 (g).

FD2004-00479

10. Execute the acknowledgment and return it to me immediately.

  
Lt Col, USAF  
Commander, 39 DS

Attachments:

1. Article 15 dated 25 Oct 96
2. Article 15 dated 4 Oct 96
3. Article 15 dated 4 Oct 96
4. LOR dated 26 Aug 96
5. LOC dated 1 May 96
6. AF Form 174, Record of Individual Counseling dated 11 Aug 95
7. Enlisted Performance Reports