

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 1.2em; width: 100%;"></div>		GRADE AB	AFSN/SSAN <div style="background-color: black; height: 1.2em; width: 100%;"></div>																																			
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<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>																																						
INDORSEMENT		DATE: 6/29/2005																																				
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-2004-00481
<p>GENERAL: The applicant appeals for upgrade of discharge to honorable.</p> <p>The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right.</p> <p>The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.</p> <p>FINDINGS: Upgrade of discharge is denied.</p> <p>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.</p> <p>ISSUE: Applicant contends discharge was inequitable because it was too harsh. The applicant did not receive an administrative discharge, thus his contention of inequity is not applicable. The applicant received a Bad Conduct Discharge, a punitive discharge, as part of his sentence resulting from a Special Court-Martial conviction. Under the provisions of Section 1553, Title 10 USC, the only basis for a change of a Bad Conduct discharge is clemency. The applicant presented evidence which the DRB opined did not warrant granting clemency. Moreover, the records indicated the applicant received six Letters of Reprimand and one Memorandum for Record, the majority of which were for financial irresponsibility, and had been notified of his commander's intent to administratively discharge him, all prior to his subsequent offense which led to his Special Court-Martial conviction. As a result of all these previous administrative/rehabilitation actions, the Board opined that the applicant had ample opportunities to change his negative behavior prior to the court-martial.</p> <p>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.</p> <p>In view of the foregoing findings the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, and no evidence warranting clemency; thus the applicant's discharge should not be changed.</p> <p>Attachment: Examiner's Brief</p>	

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

[REDACTED]
(Former AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Cannon AFB, NM on 22 Nov 96 UP Special Court Martial No.3 (Conviction by Court Martial). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 8 Mar 75. Enlmt Age: 19 0/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-43, E-75, G-44, M-60. PAFSC: 3P031 - Security Apprentice. DAS: 23 Sep 94.

b. Prior Sv: (1) AFRes 11 Mar 94 - 8 May 94 (1 month 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 9 May 94 for 4 yrs. Svd: 2 Yrs 6 Mo 14 Das, of which AMS is 2 yrs 3 months 3 days (excludes 3 months 12 days lost time).

b. Grade Status: Amn - 9 Nov 94

c. Time Lost: 6 Dec 95 thru 18 Mar 96 (3 months 12 days).

d. Art 15's: None.

e. Additional: LOR, 25 MAY 95 - Failed room inspection.
LOR, 24 MAY 95 - Financial irresponsibility.
LOR, 07 APR 95 - Financial irresponsibility.
LOR, 18 JAN 95 - Disrespect for an NCO.
LOR, 06 JAN 95 - Financial irresponsibility.
MEMO, 01 JAN 95 - Financial irresponsibility.

f. CM: Special Court Martial Order No.3 - 17 Jan 96

CHARGE: Article 112a. Plea: Guilty. Finding: Guilty.

Specification: Did, at or near Royal Air Force Lakenheath, United Kingdom, on or about 26 Oct 95, with intent to defraud and for the procurement of computer equipment, wrongfully and unlawfully make and deliver a certain check for the payment of money in the amount of \$2,531.95, then knowing that he did not or would not have sufficient funds in or credit with such bank for the payment of said check in full upon its presentment. Sentence adjudged on 6 Dec 95: Bad conduct discharge, confinement for four months, forfeiture of \$569.00 pay for four months, and reduction to AB.

g. Record of SV: None.

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

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (1) Das
TAMS: (2) Yrs (3) Mos (3) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 30 Nov 04.
(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it was based on one incident and I received not only a bad conduct discharge. I was convined (sic) for 120 days and loss of pay for 4 months. I served honorably for about 20 months before I was sentenced, and since leaving the Air Force I have a stable family and credit line without any police record and I was also reduced to rank to an E-1.

ATCH

None.

7FEB05/ia

DEPARTMENT OF THE AIR FORCE
48TH FIGHTER WING (USAFE)

FD2004-00481

23 AUG 1995

MEMORANDUM FOR AMN [REDACTED] 48 SPS

FROM: 48 SPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct--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:

a. Between 12 and 13 May 1995, you made charges on your NCO club account even though you were ordered not to use your club card for charging. You received a Letter of Reprimand (LOR), dated 24 May 1995, which was placed in your Unfavorable Information File (UIF) on 25 May 1995.

b. On 11 May 1995, you failed an inspection of your dormitory quarters. You were ordered to keep your room in inspection order at all times after this failure. On 24 May 1995, your room was in total disarray again. You received a LOR, dated 25 May 1995.

c. On 13 February 1995, you wrote a bad check to the Lakenheath NCO Club. You knew there were insufficient funds in your checking account to cover this check. You received a LOR, dated 30 March 1995, and you were placed on the Control Roster on 7 April 1995.

d. On 6 January 1995, you showed disrespect to an NCO. You received a LOR, dated 18 January 1995.

e. On 1 January 1995, you were counseled concerning your overdue account with Army Air Force Exchange Services (AAFES). You were counseled by [REDACTED] according to a Memorandum from [REDACTED].

f. Between 20 October and 15 November 1994, you wrote four bad checks to AAFES. You received a LOR, dated 6 January 1995, and a UIF was established on 7 February 1995.

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. I have made an appointment for you to consult [REDACTED], at building 976, ext 3608, on 23 Aug 95, at 1500 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 by 28 Aug 95, 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 48th Medical Group, Physical Examination Section (building 926) at 0700 hours, on 24 Aug 95. You must be in uniform. You must not consume any alcoholic beverages within 72 hours of your appointment. You must fast for 14 hours prior to your appointment. Do not smoke the day of your appointment and only consume water. If you have been prescribed glasses, you must wear your glasses to the appointment.

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 at the Unit Orderly Room or the Area Defense Counsel Office.

[REDACTED], USAF
Commander

Attachments:

1. AF Form 1058, dtd 25 May 95, w/atchs
2. LOR, dtd 25 May 95
3. AF Form 1058, dtd 7 Apr 95, w/atchs
4. Memo from [REDACTED], dtd 3 Feb 95
5. LOR, dtd 18 Jan 95, w/atchs
6. MFR by [REDACTED], dtd 1 Jan 95, w/atchs
7. AF Form 1058, dtd 7 Feb 95, w/atchs
8. Amn's Receipt of Notification Memorandum