

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
		AMN	
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
NAME OF COUNSEL AND OR ORGANIZATION			
YES	No		
	X		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES	A94.05	INDEX NUMBER	A67.10	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	07 Dec 2005	CASE NUMBER	FD-2004-00498		

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.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT		DATE: 12/8/2005
TO:	FROM:	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002	

CASE NUMBER

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2004-00498

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. The records indicated the applicant received two Article 15s. One for sleeping on his post and the other for domestic battery against his spouse. In addition, he also received four Letters of Reprimand, one Letter of Counseling, and one Letter of Admonishment for failure to obey a lawful order, speeding, reckless driving and failure to go. The applicant claims that he did not commit the offense of domestic violence and bases his issues on that fact. The record clearly shows that when the applicant was arrested, he made a statement to the police that he did indeed strike his wife. 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

(Former AMN) (HGH SRA)

MISSING SOME DISCHARGE DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Barksdale AB, LA on 6 Oct 04 UP AFI 36-3208, para 5-49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 22 Feb 80. Enlmt Age: 20 2/12. Disch Age: 24 7/12. Educ: HS DIPL. AFQT: N/A. A-50, E-43, G-42, M-45. PAFSC: 3P051 - Security Forces Journeyman. DAS: 20 Aug 01.

b. Prior Sv: (1) AFRes 15 May 00 - 02 Oct 00 (4 months 18 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 03 Oct 00 for 4 years. Svd: 04 Yrs 00 Mo 04 Das, all AMS.

b. Grade Status: Amn - 10 Aug 04 (Article 15, 10 Aug 04)
SrA - 25 Apr 04
A1C - 25 Aug 02
Amn - 25 Oct 01 (Article 15, 25 Oct 01)
A1C - 17 Nov 00

c. Time Lost: None.

d. Art 15's: (1) 10 Aug 04, Barksdale AFB, LA - Article 128. You did, at or near Bossier City, LA, on or about 18 May 04, unlawfully strike your spouse in the face with the palm of your hand. Reduction to Amn and 14 days extra duty. Suspended forfeiture of \$668.00 pay per month for 2 months. (Appeal/Denied) (No mitigation)

(2) 25 Oct 01, Barksdale AFB, LA - Article 113. You, on or about 3 Oct 01, being posted as sentinel at Entry Control Point 1 of the flightline were found sleeping upon your post. Reduction to Amn and seven days extra duty. (No appeal) (No mitigation)

e. Additional: LOA, 28 SEP 03 - Failure to obey a lawful order.
LOR, 27 APR 03 - Failure to Go.
LOR, 10 AUG 02 - Failure to keep shot record current.
LOC, 15 JUL 02 - Failed to pass fourth QC evaluation.
LOR, 15 MAY 02 - Stopped for speeding and reckless driving.
(MISSING)

LOR, 17 APR 02 - Failure to obey a lawful Order. (MISSING)

f. CM: None.

g. Record of SV: 3 Oct 00 - 2 Jun 02 Barksdale AFB 2 (Initial)REF
 3 Jun 02 - 2 Jun 03 Barksdale AFB 4 (Annual)
 3 Jun 03 - 2 Jun 04 Barksdale AFB 3 (Annual)

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

i. Stmt of Sv: TMS: (04) Yrs (04) Mos (22) Das
 TAMS: (04) Yrs (00) Mos (04) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 24 Jan 05.
 (Change Discharge to Honorable.)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 149.
3. Letter from Congresswoman Capito.
4. Letter from Dad to Congresswoman.
5. PA release form.
6. Extracts from Discharge Package.
7. Bossier City Police Report.

5MAY05day

27 JAN 2005

AA

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... 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 X AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE E-2 / Airman d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 04/10/04 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) X HONORABLE GENERAL/UNDER HONORABLE CONDITIONS 5. BOARD ACTION REQUESTED (X one) X CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION BAD CONDUCT (Special court-martial only) UNCHARACTERIZED OTHER (Explain)

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) I am not guilty of the offense of domestic violence of which I have been convicted by nonjudicial military process. I feel I have been a "victim" of the system where my legitimate defense was not genuinely considered; and, the "chain of command" "rubber-stamping" Maj. Wilcox's decision against me. (Please see my statement to Congresswoman Capito) Go to Item 14...

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) 2004 Dec 16 DD Form 149 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.) Letter to Congresswoman Capito with Privacy Act Release Form and my claim of unfair and grossly unjust conviction. Defense Counsel's Response to Recommendation For Discharge (cont. Item 15) ->

9. TYPE OF REVIEW REQUESTED (X one) X 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. 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. 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 and relationship by marking a box below. SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE 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 None d. FAX NUMBER (Include Area Code) None

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) 2005 Jan 24 CASE NUMBER (Do not write in this space.) FD 2004-00498

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

I feel that a decision made to end my military career based on, a) suspect judgement, b) improper procedure and protocol, c) withdrawal of evidence, d) withholding evidence, e) dis-regard for sworn testimony and affidavits, as well as f) no recognition or acknowledgement of alleged evidence used to convict me was in violation of my Miranda as well as military rights is unjust and grossly unfair.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable) continued from Item 8:

- Response For Recommendation for Discharge prepared by [REDACTED]
 - *** • Document and Character Witness statement and attachments - prepared by [REDACTED] (my father), personally presented to counsel and [REDACTED] - never included in the record for evidence and never presented to [REDACTED] for consideration. Sworn affidavits as well.
 - *** • The incomplete record of evidence that judgement was made upon.
 - My response to Article 15
 - My appeal of Non-judicial punishment
 - Dismissal document and Letter From the base commander.
- Also, [REDACTED] our consultant, has witnessed these proceedings from Day One - See Privacy Act Release Form Claim

16. REMARKS (If applicable)

*** [REDACTED] can be reached at [REDACTED]
[REDACTED]
He followed this case objectively and with great interest and in great detail and was astonished by the conviction and verdict.

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

HEADQUARTERS 2D BOMB WING
BARKSDALE AFB, LOUISIANA 71110

MEMORANDUM FOR [REDACTED]

FROM: 2 SFS/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, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. If my recommendation is approved, your service will be characterized as an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.
2. My reason for this action is:
 - a. On or about 18 May 04, you unlawfully struck your spouse, [REDACTED] in the face with the palm of your hand. For this incident, you received Nonjudicial Punishment, dated 10 Aug 04.
 - b. On 28 Sep 03, you failed to obey a lawful order to detail-clean the up-armored HMMV's assigned to the WSA interior patrols. For this incident, you received a Letter of Admonishment, dated 28 Sep 03.
 - c. On 24 Apr 03, you reported late for a scheduled EOC test, resulting in you not being able to take your EOC test. For this incident, you received a Letter of Reprimand, dated 27 Apr 03.
 - d. On 7 Aug 02, you failed to meet a suspense to update your annual shot records. For this incident, you received a Letter of Counseling, dated 10 Aug 02.
 - e. On 12 Jul 02, you failed your second Quality Control (QC) practical evaluation for the position of Response Force Member. Including two verbal (QC) failures for the position of Close in Sentry, this was a total of four failures. For these incidents, you received a Letter of Counseling, dated 15 Jul 02.
 - f. On 12 May 02, you were stopped by a Law Enforcement patrol for excessive speed and reckless operation of a vehicle. For this incident, you received a Letter of Reprimand, dated 15 May 02.
 - g. On 17 Apr 02, you had to be relieved off post to accomplish required tasks prior to a mandatory PHA appointment scheduled for 18 Apr 02. Your failure to accomplish these tasks in advance of the appointment as instructed adversely effected the post rotation of your peers. For this incident, you received a Letter of Counseling, dated 17 Apr 02.
 - h. On 3 Oct 01, you were found sleeping on duty while posted a sentinel at Entry Point 1 of the flightline. For this incident, you received Nonjudicial Punishment, dated 25 Oct 01.

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 Bldg. 4714, Third Floor, on 16 Sept 04, at 0730 hours. You may consult civilian counsel at your own expense.

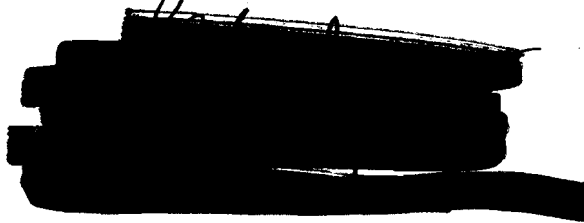
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1200, 20 Sept 04 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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 2d Medical Group, 243 Curtiss Rd., Suite 100 on 16 Sept 04, at 0700 hours for the examination. Bring medical records to appointments.

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 AF PUBS site.

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



Attachments:

1. Receipt of Notification Memorandum
2. Supporting Documents