

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ████████████████
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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

ISSUES	A93.09	INDEX NUMBER	A67.30	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
21 Jul 2005	FD-2004-00500

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

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INDORSEMENT **DATE: 7/21/2005**

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00500

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 does not contest his discharge. He states that his wife left and took their two sons with her and he became depressed. The records indicated the applicant received an Article 15 for assault upon another Air Force member by pointing a loaded firearm at him and for being AWOL. In addition, he received a Letter of Reprimand and two Records of Counseling for missing questions on his CDC course, failure to comply with mandatory aerobics and for unsatisfactory progress in the Weight Management Program. 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Travis AFB, CA, on 13 Dec 95 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense, Other Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 27 Feb 72. Enlmt Age: 21 2/12. Disch Age: 23 9/12. Educ: HS DIPL. AFQT: N/A. A-79, E-74, G-52, M-60. PAFSC: 2A733 - Aircraft Structural Maintenance Apprentice. DAS: 23 May 94.

b. Prior Sv: (1) AFRes 27 Apr 93 - 28 Nov 93 (7 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 Nov 93 for 4 years. Svd: 02 Yrs 00 Mo 15 Das, all AMS.

b. Grade Status: AB - 30 Oct 95 (Article 15, 30 Oct 95)
 A1C - 29 Mar 95
 Amn - 29 May 94

c. Time Lost: None.

d. Art 15's: (1) 30 Oct 95, Travis AFB, CA - Article 128. You did, at or near Suisun, CA, on or about 8 May 95, commit an assault upon [REDACTED] by pointing at him with a dangerous weapon, to wit: a loaded firearm. Article 86. You did on or about 2 Oct 95, without authority, absent yourself from your place of duty at which you were required to be, and did remain so absent until on or about 4 Oct 95. Reduction to AB. Restriction to Base for 30 days. (No appeal) (No mitigation)

e. Additional: LOR, 07 AUG 95 - Unsatisfactory Progress in Weight Management Program.
 ROC, 22 MAY 95 - Failure to Comply with mandatory aerobics.
 ROC, 13 FEB 95 - Missing 31 questions on Open Book Test for Vol 1 of CDC.

f. CM: None.

g. Record of SV: 29 Nov 93 - 28 Jul 95 Travis AFB 3 (Initial)

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

i. Stmt of Sv: TMS: (02) Yrs (07) Mos (17) Das
TAMS: (02) Yrs (00) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Feb 05.
(Change Discharge to Honorable.)

ISSUE ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

14MAR05/day

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BRIAN EBERT

#6 - I believe the record to be unjust because:

At the time of my discharge I was married with a young wife who had never been away from home. We had two children, twin boys. Upon my relocation to California, my wife joined me with our two sons. Neither of us had ever been away from home before. It soon became too much for her to take. She took my sons and departed California to North Carolina with no warning. I was devastated. Not only was the woman I loved gone, but also she had taken my whole world in my sons. This led to an extreme depression, which was at the direct root of my discharge. I could not cope with the prospect of facing life away from home having been separated forcibly from my family. I had no control over my personal life and could not perform as well at work as I would have liked. I feel these circumstances were completely out of my control. Losing ones wife and children suddenly is very traumatic. My service was HONORABLE. I never disgraced the military service or myself. I needed to correct the deficiencies in my personal life and could not do that from California. I was never offered Humanitarian Relocation closer to home so that I could correct those issues. When forced to choose between my family and anything else, I did what any red-blooded American would do, I chose my family, and I don't feel that warrants my service to country as being categorized as anything other than Honorable.

#7 - The board should find in the interest of Justice because:

Carrying the stigma of any discharge from military service other than honorable makes finding a good job difficult. I feel as though my choosing family over military service should not cause me to be stigmatized for such a long period of time. I am trying to improve myself and provide for my family, that now includes another son and daughter. I love them very much and want to be able to provide for them in the appropriate fashion. An Honorable Discharge from military service would go a long way towards helping me to obtain the level of job satisfaction I desire. Please find it in your hearts to consider that my service while I was in the military was good and honorable.



DEPARTMENT OF THE AIR FORCE
60TH EQUIPMENT MAINTENANCE SQUADRON (AMC)

MEMORANDUM FOR ██████████

21 NOV 1995

FROM: 60 EMS/CC
210 Goodall Street
Travis AFB CA 94535-2906

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Commission of a Serious Offense. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.52.3. If my recommendation is approved, your service will be characterized as honorable, general or under other than honorable conditions. I am recommending that your service be characterized as general.
2. The basis on which I am initiating this action is that on or about 8 May 95, at or near Suisun, California, you committed an assault upon a military member by pointing at him with a dangerous weapon, to wit: a loaded firearm. Further, on 2 Oct 95 you absented yourself from your place of duty and remained absent until 4 Oct 95. For this misconduct, you received an Article 15 dated 30 Oct 95 with punishment of reduction to the grade of airman basic and 30 days restriction to Travis Air Force Base.
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 ██████████ telephone number ██████████ has been obtained to assist you. You must report to the Area Defense Counsel's office, Bldg. 163, at 1000 hours, on 29 NOV 95. 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 (three workdays from service of this letter) 30 NOV 95, no later than 1430 hours 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 to a medical examination at the Physical Exams Section, David Grant Medical Center on 28 NOV 95 at 0800 hours..
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 orderly room.

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



Attachments:

1. Article 15, 30 Oct 95
2. Other Derogatory Data:
 - a. RIC, 13 Feb 95
 - b. RIC, 22 May 95
 - c. LOR, 7 Aug 95