

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(LAST, FIRST, MIDDLE INITIAL)								
TYPE GEN		PERSONAL APPEARANCE	ICE	X	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
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD				
A94.05		A67.50						
				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						
20 Jul 2005		FD-2005-00011						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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>								
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				

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00011

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. He also states that his commander assured him he would have an honorable discharge. The records indicated the applicant received an Article 15 for failure to go, a Vacation action under the UCMJ for failure to go and two Letters of Reprimand for disobeying a lawful order and for being late three times. The applicant's issue concerning that his commander assured him of an honorable discharge is without merit. When the commander notified him of his pending discharge, it was clearly identified on the paper work that the commander was recommending a General discharge. 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. The applicant also cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Charleston AFB, SC on 14 Mar 95 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 2 Sep 75. Enlmt Age: 17 5/12. Disch Age: 19 6/12. Educ: HS DIPL. AFQT: N/A. A-76, E-58, G-50, M-20. PAFSC: 1C331 - Command and Control Apprentice. DAS: Unknown.

b. Prior Sv: (1) AFRes 11 Feb 93 - 22 Nov 93 (9 months 12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 23 Nov 93 for 4 yrs. Svd: 1 Yrs 3 Mo 20 Das, all AMS.

b. Grade Status: AB - 13 Dec 94 (Vacation of Article 15, 3 Feb 95)
Amn - 23 May 94

c. Time Lost: None.

d. Art 15's: (1) 03 Feb 95, Vacation, Charleston AFB, SC - Article 86. You did, on or about 25 Jan 95, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 13 Dec 94, Charleston AFB, SC - Article 86. You, did, on or about 28 Nov 94, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 26 JAN 95 - Late for duty three times.
LOR, 28 NOV 94 - Disobeying a lawful order.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (2) Yrs (1) Mos (4) Das
TAMS: (1) Yrs (3) Mos (20) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Jan 05.

(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

24FEB05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 437TH AIRLIFT WING (AMC)

FD 2005-08011

MEMORANDUM FOR AB [REDACTED] 437 MSS

FROM: 437 MSS/CC

17 FEB 95

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for Misconduct - A Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50. 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 these actions are:

a. On or about 25 Jan 95, you failed to report to your appointed place of duty. This misconduct is evidenced by a Vacation Action dated 3 Feb 95 (Atch 1).

b. During the period of 29 Dec 94 through 4 Jan 95, you were late reporting to your appointed place of duty three times. This is misconduct is evidenced by a Letter of Reprimand dated 26 Jan 95 (Atch 2), which was added to your existing UIF (Atch 3).

c. On or about 28 Nov 94, you failed to report to your appointed place of duty. This misconduct is evidenced by an Article 15 dated 13 Dec 94 (Atch 4).

d. On 30 Oct 94, you disobeyed a lawful order. This misconduct is evidenced by a Letter of Reprimand dated 28 Nov 94 (Atch 5), which was used to establish a UIF (Atch 6).

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 Captain [REDACTED] Area Defense Counsel, 566-4416, Building 503, Room 119 on 17 February 1995 at 0930. You may consult civilian counsel at your own expense.

FD 2005-00011

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 23 Feb 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 437 Medical Group, Physical Exams at 0700 on 22 February 1995 for the examination.
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 437th Mission Support Squadron Orderly Room.
8. Execute the attached acknowledgment and return it to me immediately.


Major, USAF
Commander

Attachments:

1. Vacation Action, dated 3 Feb 95 w/atch
2. Letter of Reprimand, dated 26 Jan 95
3. UIF, dated 1 Feb 95
4. Article 15 dated, 13 Dec 94 w/atch
5. Letter of Reprimand, dated 28 Nov 94
6. UIF
7. Airman's Receipt of Notification Ltr (withdrawn)