

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE
SRA

AFSN/SSAN

TYPE GEN

PERSONAL APPEARANCE

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 A01.18

INDEX NUMBER A49.00

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

20 Apr 2005

CASE NUMBER

FD-2005-00014

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case was tendered at Washington, D.C.

Advise applicant of the decision of the Board.

Names and votes will be made available to the applicant at the applicant's request.

* CHANGE RE CODE

+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

INFORMED

DATE: 4/20/2005

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**FD-2005-00014**

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge and to change the reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB). However, before he appeared the case was tendered to the DRB because review of the case file revealed improprieties warranting upgrade of the discharge characterization.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants the requested relief.

ISSUE:

Issue 1. Applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant failed his CDCs twice, was notified of the impending discharge action, and was subsequently separated with an under honorable conditions (general) discharge. At the time of notification, the applicant was informed that his commander was recommending an honorable discharge. Presumably based on this representation, the applicant waived his right to an administrative discharge board and his right to submit matters on his own behalf. In the recommendation letter forwarding the applicant's case to the separation authority, however, the applicant's commander--without giving notice to the member--made a pen-and-ink change to his recommendation for discharge characterization from honorable to general. The DRB concluded that this impropriety usurped the member of his rights in the discharge procedure. The DRB also found that the member's case had not been reviewed by the separation authority. Rather the separation was approved "for the commander" by a senior noncommissioned officer. There is no evidence in the case file that the separation authority ever saw the applicant's case or made the determination on the applicant's discharge. The DRB further concluded that without any actionable misconduct, the member's service was best characterized as honorable.

CONCLUSIONS:

The overall quality of applicant's service is more accurately reflected by an honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to honorable and Secretarial Authority under the provisions of Title 10, USC 1553. His RE code should also be changed to "3K" to allow the applicant to reenter military service if he so desires.

Attachment:

Examiner's Brief

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

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Blue Ash ANG, OH on 30 Apr 98 UP AFI 36-3209, para 3.18.6 (Unsatisfactory Performance). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.
2. **BACKGROUND:**
- a. DOB: 25 Feb 71. Enlmt Age: 22 9/12. Disch Age: 27 2/12. Educ: HS DIPL. AFQT: N/A. A-82, E-77, G-80, M-88. PAFSC: 2E131 - Satellite and Wideband Communications Equipment Journeyman. DAS: 1 Dec 93.
- b. Prior Sv: (1) ARes 23 Mar 89 - 10 Jul 89 (3 months 18 days) (Inactive).
(2) Army 11 Jul 89 - 10 Jul 93 (4 years) SPC - 1 Oct 91. No performance reports available.
(3) Army (IRR) 11 Jul 93 - 30 Nov 93 (4 months 20 days) (Inactive).
3. **SERVICE UNDER REVIEW:**
- a. Enlisted as SrA 1 Dec 93 for 6 years. Svd: 04 Yrs 05 Mo 00 Das, of which AMS is 1 Mo 13 Das.
- b. Grade Status: None.
- c. Time Lost: None.
- d. Art 15's: None.
- e. Additional: LOC, 4 Aug 96 - Drunk and Disorderly. Also, making improper sexual advances towards two enlisted females.
- f. CM: None.
- g. Record of SV: Unknown.
- h. Awards & Decs: SAEMR W/1 DEV, AFTR, AFGCM, AFLSA, NDSM, AFOUA, ARMY ACHIEVEMENT MEDAL W/1 DEV, ARMY SVC RBN, SW ASIA SVC MEDAL W/3 DEV, AIR RESV FORCES MSM, KUWAIT LIBERATION MEDAL, OHIO AWARD OF MERIT, GCMDL Army.
- i. Stmt of Sv: TMS: (09) Yrs (01) Mos (08) Das
TAMS: (04) Yrs (01) Mos (14) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Jan 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority
fbr Discharge.)

Issue 1: ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Letter from Applicant's Attorney.
3. Letter of Support.

24FEB05/day

JAN 10 2005

all

FD 2005-00014

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, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

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)	<input type="checkbox"/> ARMY	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> NAVY	<input checked="" type="checkbox"/> AIR FORCE	<input type="checkbox"/> COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE			d. SOCIAL SECURITY NUMBER	
[REDACTED]	SRA / E-4			[REDACTED]	

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (if date is more than 15 years ago, submit a DD Form 149) 1998-04-30	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
	<input type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 123 ACS Blue Ash AGS Cincinnati, OH 45242	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
	<input type="checkbox"/> UNCHARACTERIZED	
	<input type="checkbox"/> 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 requesting an upgrade so that I may be able to re-enlist in the military, the ARMY and NAVY have both expressed interest in re-enlisting me. I feel I was unjustly given a general discharge, I was given a Honorable from the Army and am a Gulf War Vet. I dont think the Air Force evaluated my entire military record when they issued the general Discharge

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) 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.)
I have attached two letters of recommendation and a letter of request

9. TYPE OF REVIEW REQUESTED (X one)

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 the name (print) 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.) [REDACTED]	b. TELEPHONE NUMBER (Include Area Code)
	c. E-MAIL
	d. FAX NUMBER (Include Area Code)

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.)

SIGNATURE OF APPLICANT (See Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD) 2005/01/15	CASE NUMBER (Do not write in this space.) FD-2005-00014
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[REDACTED]

January 2, 2005

Ladies and Gentlemen,

My name is [REDACTED] I am writing to request a review of my discharge from the Air National Guard. The reason for the request is an attempt to become eligible to rejoin the active duty military. I know what it means to serve during war time and the commitment it takes to serve. I am as you may see in my records a veteran of the first Gulf War. I feel they did not review my full military record before issuing the general discharge.

I made some mistakes while in the guard and some bad choices in respect to my career. I realize I made some really irresponsible decisions personally and professionally. As I was able to come to accept that I am the only one that can be held responsible for my actions and the choices I make as was such with the CDC exam's. I feel I was more occupied with being a truck driver at the time, that I did not apply myself to completing the CDC exam. I did not realize at the time what the effect would be and how my life would change.

I can't begin to tell you the regrets I have for letting myself down and my supervisors and Air Force I did a disservice to them and myself and cheated myself and the guard out of seven years of good service. I hope after reviewing my record you can see I was not a bad Airmen. I know my life has changed and my outlook has also. I do hope you grant the discharge upgrade so that I may try to rejoin the military. I can only hope if I get back in to help somebody else make a more informed decision in relation to there career then I did, Thank you for your time and consideration.

Sincerely

[REDACTED]



OHIO AIR NATIONAL GUARD
123RD AIR CONTROL SQUADRON (CRE)
10649 MCKINLEY ROAD
BLUE ASH ANG STATION, CINCINNATI, OHIO 45242-3797

22 December, 1997

MEMORANDUM FOR SRA [REDACTED]

FROM: 123 ACS/CC

SUBJECT: Letter of Notification.

1. I am recommending your discharge from the Air National Guard for Unsatisfactory Performance, authority AFI 36-3209, paragraph 3.18.6 and 3.18.7. I am recommending that you receive an Honorable Discharge.

2. My reasons for this action are: Inability to attain job skill proficiency and maintain readiness by failing your Career Development Courses (CDC's) twice. Your failure to meet Air Force standards of performance renders you unfit for military service. You were counseled after failing your first CDC. This counseling showed that you did not prepare for your test and refused to take responsibility for your failure. You were given another chance to retake the test. Results of this test showed no improvement over your previous score. This proves your inability to attain minimum standards through inaptitude or non-application.

3. This action could result in your separation with a General Discharge. I am recommending you receive an Honorable discharge. The Adjutant General of Ohio as discharge authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Ohio Air National Guard and may be denied enlistment in any component of the Armed Forces.

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.
- e. Waive your above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. Military legal counsel, [REDACTED] Major, 178 FW/JAG, Phone [REDACTED] or extension [REDACTED] on UTA weekends, has been obtained to assist you. 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.

6. If you elect to have your case heard before an Administrative Discharge Board, you must also complete the applicable portion of the Statement of Selection of Options, (Attachment 3) to reflect if you desire to make a personal appearance before that board, if you desire to be represented by military counsel made available to you to assist you, if you desire to be represented by civilian counsel at your own expense or by another military counsel of your choice, if that counsel is reasonably available (in either case, identify the counsel by name, address and telephone number), and if you desire witnesses to appear before the board (if so, provide names, addresses, and phone numbers, if known, and a summary of their expected testimony and why their personal appearance is necessary). If you elect to have your case heard before an Administrative Discharge Board and either you or your counsel need additional time to appear before or attend that hearing, you or your counsel should submit a request for delay to this unit stating the reasons for the request and the additional time required. If you elect to make a personal appearance before an

Administrative Discharge Board and fail to appear at the scheduled board hearing, your case will be heard and processed by the board in your absence.

7. Confer with your counsel and reply in writing, within 30 days, specifying the rights you choose to exercise (see attachment 3). 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. The appropriate authority will consider granting an extension of the time to reply if additional time is needed by respondent or counsel. Respondent or counsel must submit a written request for such delay, stating the reasons and how much time is needed. The decision whether to grant the additional time is discretionary with the appropriate authority.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3209 is available for your use in the 123 ACS Orderly Room.

9. Execute the attached acknowledgment and return it to me within 24 hours after receipt of this letter of notification and attachments. (Attachment 2)

10. Within 15 days after receipt of this letter, return the enclosed Statement of Selection of Options to 123 ACS, Blue Ash ANG, 10649 McKinley Rd, Cincinnati, OH 45242-3797. Failure to acknowledge receipt within 24 hours to respond concerning selection of options within 15 days after receipt of this letter, or to request an extension of this time limit constitutes a waiver of your rights and options as described in paragraphs 4 and 6 above and will result in this discharge action being finally processed on information available.

FOR THE COMMANDER


MAJ, OHANG
Detachment Commander

Attachments:

1. Supporting Documentation
2. Airman's Acknowledgment
3. Airman's Statement of Selection of Options