

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

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 03 Nov 2005	CASE NUMBER FD-2005-00112	
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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.

SIGNATURE OF RECORDER 	SIGNATURE OF BOARD PRESIDENT 
INDORSEMENT	DATE: 11/7/2005

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-2005-00112

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.

ISSUES:

Issue 1. Applicant contends his discharge is creating a negative public view and it is difficult to become a productive member of society. The records indicated the applicant was found guilty by Summary Court Martial for making a false official statement with intent to deceive. The member also received two Letters of Reprimand and three Records of Individual Counseling for failure to attend mandatory training, failure to wear desert combat uniform properly, disrespectful and unacceptable behavior to a member of his chain of command, dereliction of duty, and non-compliance with Air Force standards. 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.

Issue 2. The applicant 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, on April 5, 1999) 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.

Issue 3. The applicant noted his desire to return to military service. While the Board commends the applicant on this aspiration, it is not a matter of equity or propriety with regard to his discharge and does not provide a basis that warrants 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

(Former A1C) (HGH SrA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Stuttgart, Germany on 13 Oct 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 30 Dec 78. Enlmt Age: 20 2/12. Disch Age: 25 9/12. Educ: HS DIPL. AFQT: N/A. A-46, E-74, G-68, M-78. PAFSC: J1C451 - TAC Air Command & Control Journeyman. DAS: 1 Feb 02.

b. Prior Sv: (1) Enlisted as Amn 24 Mar 99 for 4 yrs. Svd: 3 yrs 9 months 23 days, all AMS. A1C - 22 Jun 00. SrA - 21 Sep 02. EPRs: 4,3(REF), 4.

3. SERVICE UNDER REVIEW:

a. Reenlisted as SrA 17 Jan 03 for 4 yrs. Svd: 1 Yrs 8 Mo 26 Das, all AMS.

b. Grade Status: A1C - 2 Jul 04 (Summary Court Martial, 17 Jan 04)

c. Time Lost: None.

d. Art 15's: None.

e. Additional: RIC/UIF, 14 JUN 04 - Noncompliance with Air Force standards, customs, and courtesies.
LOR, 04 JUN 04 - Dereliction of duty.
LOR; 01 JUN 04 - Disrespect and unacceptable behavior to a member of his chain of command.
RIC, 26 OCT 03 - Failure to wear the desert combat uniform properly.
RIC, 26 OCT 03 - Failure to attend mandatory training.

f. CM: Summary Court Martial - 17 Jun 04.

CHARGE I: Finding: Not Guilty.

CHARGE II: Article 134. Plea: Not Guilty. Finding: Guilty.

Specification: Did, at or near Camp Ederle, Italy, on or about 9 Feb 04, with intent to deceive, make to TSgt [REDACTED], an official statement, to wit: "[REDACTED] said it's okay for me to take leave anywhere because I have officially final out-processed the unit," which statement was inaccurate in that [REDACTED] also told you she did not think it was legal for you to

stay in the overseas area without being on leave and to speak with
SSgt Donricus Lilly. Sentence adjudged: Reduction to the grade
of A1C, and forfeiture of \$100.00 pay for one month.

g. Record of SV: 22 Sep 02 - 21 Sep 03 Camp Ederle AIN 4 (Annual)

h. Awards & Decs: ARCM, AFTR, NDSM, AFOSSTR, AFLSAR, SAEMR, AFEM W/1 OLC,
AFGCM, AFOSLTR, KSM, AFOUA W/1 OLC.

i. Stmt of Sv: TMS: (5) Yrs (6) Mos (20) Das
TAMS: (5) Yrs (6) Mos (20) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 6 Mar 05.
(Change Discharge to Honorable)

Issue 1: Due to the characterization of discharge and reasons, the view of
the public has become negative (sic) towards this matter. I found it very
difficult to become a productive member of society because of the negative
influence of the character of discharge. As far as employment, it has become
overly difficult to find employment with this characterization of discharge. If
this discharge is upgraded or changed to honorable, this will help or change
several matters like employment. During this 6 month wait, I want to attend
several continuing education programs, but this characterization of discharge
has made it impossible to receive (sic) my VA benefit like the G.I. Bill.
Furthermore, I have given careful consideration to continuing my service to my
country in a different service agency. This discharge upgrade will open a
multitude of opportunities. Thank you.

ATCH

1. Texas Workforce Commission Statement of Account.

5MAY05/ia



(FD 2005-00112)

DEPARTMENT OF THE AIR FORCE
DETACHMENT 1, 4TH AIR SUPPORT OPERATIONS GROUP

31 August 2004

MEMORANDUM FOR A1C [REDACTED]

FROM: DET 1, 4 ASOG/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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 an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reasons for this action are:

- a. On or about 9 February 2004, with intent to deceive, you made to TSgt [REDACTED] an inaccurate official statement. For this incident, you were convicted at a summary court-martial on 17 June 2004. The findings and sentencing were approved by the special court-martial convening authority on 13 August 2004. (Atch 1a)
- b. On or about 10 June 2004, you addressed a Captain of the United States Air Force by his first name. For this incident, you received a Record of Individual Counseling (RIC), dated 14 June 2004. This action was placed in your Unfavorable Information File (UIF). (Atchs 1b and 1c)
- c. On or about 1 June 2004, you were derelict in the performance of your duties in that you failed to follow unit directives for physical training (PT) . Specifically, you were at the PX getting your hair cut when you should have been at PT and you were wearing headphones that were not authorized. For these incidents, you received a Letter of Reprimand (LOR), dated 4 June 2004. This action was placed in your UIF. (Atchs 1d and 1e)
- d. On or about 12 April 2004, you did not follow your chain of command to request permissive temporary duty orders and on or about 23 April 2004, you did not follow your chain of command in requesting to be a lifeguard at the post fitness center pool. For these incidents, you received a LOR, dated 1 June 2004. This action was placed in your UIF. (Atchs 1d and 1f)
- e. On or about 23 October 2003, you failed to wear the desert combat uniform (DCU)

properly. For this incident you received a RIC, dated 26 October 2003. (Atch 1g)

f. On or about 22 October 2003, you did not attend mandatory Professional Military Education (PME) training. For this incident, you received a RIC, dated 26 October 2003. (Atch 1h)

3. You have the right to consult counsel. Contact the Legal Office at Aviano Air Base (DSN 632-5588) to make an appointment. If you chose to not consult with counsel, then take no actions regarding an appointment with legal. 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 1000L on 7 Sep (Tues) 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 are required to have a medical examination. An appointment with Force Health Management at Aviano Air Base will be made for you and you will be notified in writing of the appointment and your requirements to fulfill it.
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 orderly room.
8. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Supporting Documents:
 - a. DD Form 2329, dated 17 June 2004 w/atch
 - b. AF Form 1058, dated 26 July 2004
 - c. RIC, dated 14 June 2004 w/atch
 - d. AF Form 1058, dated 29 June 2004 w/atch
 - e. LOR, dated 4 June 2004 w/atch
 - f. LOR, dated 1 June 2004 w/atchs
 - g. RIC, dated 26 October 2003
 - h. RIC, dated 26 October 2003
2. Receipt of Notification Memorandum