

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; height: 15px; width: 100%;"></div> | | GRADE AMN | AFSN/SSAN <div style="background-color: black; height: 15px; width: 100%;"></div> | | | | | | |
| TYPE GEN | PERSONAL APPEARANCE | X | RECORD REVIEW | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">COUNSEL</td> <td style="width: 90%;">NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td>YES</td> <td>No</td> </tr> <tr> <td></td> <td style="text-align: center;">X</td> </tr> </table> | | COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | YES | No | | X | ADDRESS AND OR ORGANIZATION OF COUNSEL | |
| COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | | | | | | | | |
| YES | No | | | | | | | | |
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| MEMBER SITTING | | VOTE OF THE BOARD | | | | | | | |
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| ISSUES A93.01 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 12 Aug 2005 | CASE NUMBER FD-2005-00117 | | | | | | | | |
| 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> | | | | | | | | | |
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| INDORSEMENT | | | | | | | | | |
| TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742 | | | | DATE: 8/12/2005 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-2005-00117

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. The records indicated the applicant received two Article 15s, five Letters of Reprimand, one Letter of Counseling, and three Records of Individual Counseling. The misconduct included license revoked for reckless driving in a government vehicle, speeding while driving a government vehicle, late for duty, failure to go, misusing government credit card, and assault. 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 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 3. 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 August 22, 1995) 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

(Former AMN) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Beale AFB, CA on 31 Mar 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 11 Jul 72. Enlmt Age: 22 10/12. Disch Age: 25 8/12. Educ: HS DIPL. AFQT: N/A. A-43, E-65, G-70, M-79. PAFSC: 2T131 - Vehicle/Operator Dispatcher Apprentice. DAS: 29 Nov 95.

b. Prior Sv: (1) AFRes 8 Jun 95 - 9 Aug 95 (2 months 2 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 10 Aug 95 for 4 yrs. Svd: 2 Yrs 7 Mo 22 Das, all AMS.

b. Grade Status: Amn - 29 Oct 97 (Vacation of Article 15, 11 Dec 97)
A1C - 10 Dec 96
Amn - 10 Feb 96

c. Time Lost: None.

d. Art 15's: (1) 11 Dec 97, Vacation, Beale AFB, CA - Article 86. You, did, on or about 1 Dec 97, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman. (No appeal) (No mitigation)

(2) 29 Oct 97, Beale AFB, CA - Article 86. You did, on or about 15 Sep 97, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Airman. Restriction to Beale AFB, CA for 30 days, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 16 MAR 98 - Failure to go.
LOC, 31 OCT 97 - Assault.
LOR/UIF, 09 OCT 97 - Misusing a government credit card.
(Placed on control roster for continuous misconduct.
LOR/UIF, 17 SEP 97 - Misusing a government credit card.
LOR/UIF, 11 AUG 97 - Late for duty.
LOR, 23 JUL 97 - Failure to go.
LOR, 30 MAY 97 - Late for work.
RIC, 15 JUN 97 - Late for duty.

RIC, 26 SEP 96 - Cited for speeding.

RIC, 04 JAN 96 - License revoked for reckless driving.

f. CM: None.

g. Record of SV: 10 Aug 95 - 9 Apr 97 Beale AFB 3 (Initial)REF

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

i. Stmt of Sv: TMS: (2) Yrs (9) Mos (24) Das
TAMS: (2) Yrs (7) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 11 Mar 05.
(Change Discharge to Honorable)

Issue 1: I would like to be able to use my military education benefits to further my career. I have greatly matured and stablized since my service in the Air Force. I am a solid law-abiding citizen and and (sic) a homeowner in my community. I have not been into any legal troubles since my service, And (sic) I have always been steadily employed. I feel an upgrade to an Honorable discharge would enable me to become more successful (sic) in my career as well as my personal life.

ATCH

1. Order Following Hearing On Petition to Change Name.

4MAY05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 9TH LOGISTICS GROUP (ACC)
BEALE AIR FORCE BASE, CALIFORNIA

FD 2005-00117

20 MAR 98

MEMORANDUM FOR: [REDACTED]
9th Transportation Squadron

FROM: 9 TRNS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for my recommendation is AFI 36-3208, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your service will be characterized as general.
2. My reasons for this action are:
 - a. On 3 January 1996, you were involved in an accident at the AFCOMAC dorms. While driving a bus you collided with two parked cars. For this you were counseled and sent to the Wing Safety drivers training course (atch 1).
 - b. On 25 September 1996, you were cited for driving a government vehicle in a school zone, 16 mph over the posted speed limit. For this you were counseled (atch 2).
 - c. On 15 January 1997, you were late for duty. For this you were counseled (atch 3).
 - d. On 28 May 1997, you failed to go at the time prescribed to your appointed place of duty. For this you received a Letter of Reprimand (atch 4).
 - e. On 22 July 1997, you failed to go at the time prescribed to your appointed place of duty. For this you received a Letter of Reprimand (atch 5).
 - f. On 7 August 1997, you failed to go at the time prescribed to your appointed place of duty. For this you received a Letter of Reprimand and an UIF was established (atch 6).
 - g. On 12 August 1997, you used your government American Express card for purposes other than official business. Specifically, you made a cash advance withdraw in the amount of \$20.00. For this you received a Letter of Reprimand and a UIF (atch 7).
 - h. On 28 August 1997, you used your government American Express card for purposes other than official business. Specifically, you made a cash advance withdraw in the amount of \$20.00. For this you received a Letter of Reprimand and a UIF (atch 8).

Global Power for America

i. On or about 15 September 1997, without authority, you failed to go at the time prescribed to your appointed place of duty. For this you received a nonjudicial punishment action (atch 9).

j. On 20 October 1997, you assaulted your girlfriend by physically grabbing her arm and removing her from your dormitory room doorway. For this you received a Letter of Counseling (atch 10).

k. On or about 1 December 1997, without authority, you failed to go at the time prescribed to your appointed place of duty. For this your Article 15 punishment was vacated (atch 11).

l. On 5 March 1998, you failed to go to a mandatory scheduled appointment. For this you received a Letter of Reprimand and UIF (atch 12).

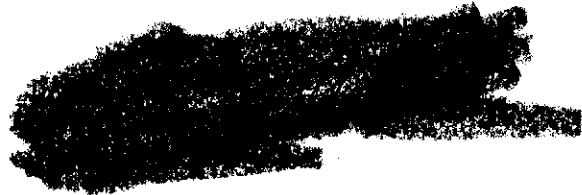
Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible 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 with [REDACTED] at the Area Defense Counsel's Office, Building 2179, Room 102, ext 2081, on 23 March 1998, at 1000 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 26 March 1998, at 1530 hours, 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. 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.



Attachments:

1. AF Form 174, 4 Jan 96
2. AF Form 174, 6 Sep 96
3. AF Form 174, 15 Jan 97
4. LOR, 30 May 97
5. LOR, 23 Jul 97
6. LOR, 11 Aug 97
7. LOR, 17 Sep 97
8. LOR, 9 Oct 97
9. Article 15, 6 Nov 97
10. LOC, 31 Oct 97
11. AF Form 366, 16 Dec 97
12. LOR, 16 Mar 98
13. Airman's Acknowledgment