

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

(INITIAL)

<b>TYPE GEN</b>	<input checked="" type="checkbox"/>	<b>PERSONAL APPEARANCE</b>	<b>RECORD REVIEW</b>
<b>COUNSEL</b>		<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
<b>YES</b>	<b>No</b>		
	<input checked="" type="checkbox"/>		

<b>MEMBER SITTING</b>	<b>VOTE OF THE BOARD</b>				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b>	A94.05	<b>INDEX NUMBER</b>	A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
				<b>1</b>	ORDER APPOINTING THE BOARD
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE
				<b>3</b>	LETTER OF NOTIFICATION
				<b>4</b>	BRIEF OF PERSONNEL FILE
					COUNSEL'S RELEASE TO THE BOARD
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE

<b>HEARING DATE</b>	<b>CASE NUMBER</b>
20 Sep 2005	FD-2005-00119

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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 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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<b>INDORSEMENT</b>		<b>DATE: 9/20/2005</b>
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2005-00119

**GENERAL:** The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 20 Sep 2005.

The following additional exhibits were submitted at the hearing:

Exhibit #5: Applicant's Contentions

Exhibit #6: Summary of e-mail correspondence for "join spouse" assignment

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:**

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, a vacation of Article 15 suspended punishment, two Letters of Reprimand, three Letters of Counseling for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. Although the applicant provided additional extenuation and mitigation to the misconduct, the Board concluded the misconduct was committed and was, cumulatively, 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 and his successful completion of an initial enlistment as justification for upgrade. 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 also believed that he was mistreated "because certain individuals did not like [him.]" In support of this contention, the applicant provided exhibit 6 and testified generally to a lack of command support. The applicant pointed specifically to an NCO inside his unit but outside his chain of command who disliked him. The applicant, however, could not point out a specific reason why he was mistreated nor point to a specific supervisor or member in his chain of command that mistreated him to a degree that would have impacted his separation from the Air Force. The record reflects, to the contrary, that the command took steps to give the applicant the opportunity to overcome his difficulties. Even up until the last piece of misconduct the command appeared to want to work with the applicant. For example, the applicant's immediate commander stated in his recommendation, "The offer was made to him that if he could correct his financial indiscretions during the six-month period of the Control Roster and regain the trust of his chain of command, we would consider pulling the UIF and recommending him for promotion." The Board concluded that the applicant did not sufficiently establish an impropriety or inequity in the command's administration of discipline or discharge.

**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 SRA)

**1. MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Hurlburt Field, FL on 31 Dec 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

**2. BACKGROUND:**

a. DOB: 24 May 78. Enlmt Age: 18 3/12. Disch Age: 25 7/12. Educ: HS DIPL. AFQT: N/A. A-63, E-43, G-32, M-33. PAFSC: 2S051 - Supply Management Apprentice. DAS: 22 Aug 99.

b. Prior Sv: (1) AFRes 30 Aug 96 - 5 Mar 97 (6 months 4 days)(Inactive).

(2) Enlisted as AB 6 Mar 97 for 4 yrs. Svd: 3 yrs 11 months 2 days, all AMS. AMN - 6 Sep 97. A1C - 6 Jul 98. SrA - 22 Mar 00. EPRs: 4,3(REF), 5.

**3. SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 9 Feb 01 for 4 yrs. Svd: 2 Yrs 10 Mo 22 Das, all AMS.

b. Grade Status: Amn - 14 Nov 03 (Article 15, 14 Nov 03)  
A1C - 24 Aug 01 (Vacation of Article 15, 19 Feb 02)

c. Time Lost: None.

d. Art 15's: (1) 14 Nov 03, Hulburt Field, FL - Article 86. You did, on or about 11 Oct 03, without authority, fail to go at the time prescribed to your appointed place of duty. Article 91. You, on or about 11 Oct 03, were disrespectful in language toward SMSgt [REDACTED] a senior noncommissioned officer, then known by you to be a senior noncommissioned officer, who was then in the execution of his office, by saying to him, "I'm with my buddies and I'm not going to report to work," or words to that effect. Article 92. You, who knew or should have known of your duties, within the state of Florida, on or about 12 Oct 03, were derelict in the performance of those duties in that you negligently failed to maintain a valid drivers license while operating a vehicle, as it was your duty to do. Reduction to Airman, and 14 days extra duty. (Appeal/Denied) (No mitigation)

(2) 19 Feb 02, Vacation, Hulburt Field, FL - Article 92.

You, who knew of your duties, between on or about 3 Oct 01, and on or about 3 Jan 02, were derelict in the performance of those duties in that you willfully failed to pay your Bank of America VISA government travel charge card bill, as it was your duty to do. Reduction to A1C. (No appeal) (No mitigation)

(3) 24 Aug 01, Hulburt Field, FL - Article 92. You, who knew of your duties, between on or about 12 Apr 01 and on or about 13 May 01, were derelict in the performance of those duties in that you willfully used your Bank of America VISA government travel charge card for personal cash advances rather than for government travel expenses only, as it was your duty to do. Suspended reduction to A1C. Thirty days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 28 AUG 03 - Failure to pay rent.  
 LOC, 27 AUG 03 - Late for duty and dereliction of duty.  
 LOC, 25 AUG 03 - Failure to obey orders and lying.  
 LOR, 31 JUL 03 - Failure to pay rent.  
 LOC, 25 JUN 01 - Dereliction of duty.  
 MEMO, 11 DEC 01 - Late DPP payment.  
 MFR, 16 JUN 01 - Failure to communicate.

f. CM: None.

g. Record of SV: 22 Mar 00 - 21 Mar 01 Hulburt Field 5 (Annual)  
 22 Mar 01 - 21 Mar 02 Hulburt Field 2 (Annual) (REF)  
 21 Mar 02 - 28 Nov 02 Hulburt Field 4 (CRO)  
 29 Nov 02 - 28 Nov 03 Hulburt Field 2 (Annual) (REF)

h. Awards & Decs: AFLSAR, AFOSLTR, AFTR, NDSM, NATOM.

i. Stmt of Sv: TMS: (7) Yrs (4) Mos (2) Das  
 TAMS: (6) Yrs (9) Mos (26) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 7 Mar 05.  
 (Change Discharge to Honorable)

Issue 1: Member has completed first full term of service. To be eligible for education benefit you must have received an "honorable" discharge. I'm currently enroll (sic) in school and want to request for revision of the characer (sic) of my discharge with the service department Discharge review board.

**ATCH**

None.

6MAY05/ia

FD2005-00119



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE SPECIAL OPERATIONS COMMAND (AFSOC)

12 DEC 03

MEMORANDUM FOR AMN [REDACTED], HQ AFSOC

FROM: HQ AFSOC/CCQ

SUBJECT: Notification Memorandum-Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, minor disciplinary infractions. The authority for this action is AFPD 36-32, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airmen, under the provisions of chapter 5, section H, paragraph 5.49. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 11 Oct 03, without authority you failed to go at the time prescribed to your appointed place of duty and were disrespectful in language toward Senior Master Sergeant [REDACTED] a senior noncommissioned officer, for which you received Nonjudicial Punishment under Article 15, UCMJ on 20 Nov 03, which was filed in your Unfavorable Information File (UIF).

b. Between on or about 15 Aug 03 and on or about 28 Aug 03, you dishonorably failed to pay your rent, for which you received a Letter of Reprimand (LOR) on 28 Aug 03, which was filed in your UIF.

c. Between on or about 24 Jul 03 and on or about 25 Jul 03, you were derelict in the performance of your duties by not completing the tasks told to you by SSgt [REDACTED] or performing a proper turn over, for which you received a Letter of Counseling (LOC) on 27 Aug 03, which was filed in your Personnel Information File (PIF).

d. Between on or about 21 Jul 03 and on or about 22 Aug 03, you were derelict in the performance of your duties in that you failed to properly dispose of your deceased dog's carcass, for which you received an LOC on 25 Aug 03, which was filed in your UIF.

e. Between on or about 1 Jul 03 and on or about 18 Jul 03, you dishonorably failed to pay your rent, for which you received an LOR on 31 Jul 03, which was filed in your UIF.

f. Between on or about 3 Oct 01 and 3 Jan 02, you were derelict in the performance of your duties by willfully failing to pay your Bank of America VISA government travel charge card bill, for which you received Vacation of Suspended Nonjudicial Punishment on 10 Feb 02, which was filed in your UIF.

g. Between on or about 12 Apr 01 and on or about 13 May 01, you were derelict in the performance of your duties by using your Bank of America VISA government travel charge card for personal cash advances rather than government travel expenses, for which you received Nonjudicial Punishment under Article 15, UCMJ on 28 Aug 01, which was filed in your UIF.

h. On or about 15 Jun 01, you were derelict in the performance of your duties by neglecting to notify Storage and Issue and the C-130 MRSP personnel of four MICAP LRC shipments that were required to be pulled for shipment to deployed forces involved in the Operation Readiness Inspection (ORI), for which you received an LOC on 25 Jun 01, which was filed in your PIF.

3. This action could result in your separation with an under other than honorable conditions (UOTHC) discharge. I am recommending that you receive a general discharge. The commander exercising special court-martial jurisdiction or a higher authority will make final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces and any special pay, bonus or education assistance funds may be subject to recoupment.

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, in lieu of, the board hearing.

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

5. You have been scheduled for a medical examination. You must report to the Hurlburt Field Clinic, at N/A hrs on N/A.

6. Military legal counsel Capt , DSN: 579-5216, (850) 884-5216, has been appointed to assist you. An appointment has been scheduled for you to consult him on 15 DEC 03 at 0900 hours, Bldg 90042. 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, Administration of Military Justice. 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.

7. Confer with your counsel and reply in writing within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who will also sign it. 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.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 will be provided upon your request.

9. If you request a board and fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.


10. If you received advanced educational assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject to recoupment.

11. Execute the attached acknowledgment and return to me immediately.



apt, USAF

Attachments:

1. AF FM 3070, dtd 20 Nov 03 (5pgs)
2. LOR, dtd 28 Aug 03 (1pg)
3. LOC, dtd 27 Aug 03 (1pg)
4. LOC, dtd 25 Aug 03 (1pg)
5. LOR, dtd 31 Jul 03 (2pgs)
6. AF FM 366, dtd 20 Feb 02 (3pgs)
7. AF FM 3070, 28 Aug 01 (3pgs)
8. LOC, dtd 25 Jun 01 (2pgs)
9. AF Form 1137, undated (1pg)
10. Documents containing derogatory information--which are not listed on the notification memorandum:
  - a. Memo For SMSgt  dtd 11 Dec 01 (1pg)
  - b. MFR, dtd 16 Jun 01 (1pg)
  - c. MFR, dtd 16 Jun 01 (1pg)
  - d. Memorandum For Capt Delamater, undated (1pg)
11. Airman's receipt of notification memorandum