

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | | GRADE AMN | AFSN/SSAN [REDACTED] |
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|----------|----|-------------------------------------|--|---|--|--|--|
| 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 |
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| ISSUES A92.37 A92.19 A93.07 A92.27 A92.33 | | INDEX NUMBER A67.90 | 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 09 Nov 2005 | | CASE NUMBER FD-2005-00157 | | | | | |

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, 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.

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| SIGNATURE OF RECORDER <i>Linda F. Brower</i> LINDA F. BROWER, MSGT, USAF | SIGNATURE OF BOARD PRESIDENT <i>Thomas E. Hammen</i> THOMAS E. HAMMEN, COL, USAF |
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| INDORSEMENT | | DATE: 11/9/2005 |
| 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-2005-00157

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 applicant substantiates an impropriety that would justify a change of discharge.

ISSUE: Applicant contends his discharge resulted from a civil matter between him and his spouse and he successfully completed his first-term of service with an honorable discharge. Member states if he had been given the opportunity to complete his second enlistment he would have received another honorable discharge. The records indicated the applicant received two Article 15s, one Letter of Reprimand, and three civilian police reports. His misconduct included multiple incidents of assault and violations of domestic orders, battery, failure to report to an adult detention center, and a civilian court conviction for assault. The DRB opined that 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.

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 Cannon AFB, NM on 8 Jul 04 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 7 Apr 76. Enlmt Age: 21 5/12. Disch Age: 28 3/12. Educ: HS DIPL. AFQT: N/A. A-54, E-72, G-53, M-53. PAFSC: 2A352 - Avionics Systems Journeyman. DAS: 9 Jun 03.

b. Prior Sv: (1) AFRes 3 Oct 97 - 3 Feb 98 (4 months 1 day) (Inactive).

(2) Enlisted as AB 4 Feb 98 for 4 yrs. Svd: 3 yrs 11 months 19 days, all AMS. AMN - 4 Aug 98. A1C - 4 Jun 99. SrA - 4 Feb 01. EPRs: 3,4,4.

3. SERVICE UNDER REVIEW:

a. Reenlisted as SrA 24 Jan 02 for 6 yrs. Svd: 2 Yrs 5 Mo 14 Das, of which AMS is 2 yrs 3 months 13 days (excludes 2 months 1 day lost time).

b. Grade Status: Amn - 30 Mar 04 (Article 15, 30 Mar 04)

c. Time Lost: 16 Mar 04 thru 15 May 04 (2 months 1 day).

d. Art 15's: (1) 30 Mar 04, Cannon AFB, NM - Article 92. You, who knew of your duties at or near Clovis, New Mexico, on or about 16 Mar 04, were derelict in the performance of those duties in that you willfully failed to report to the Curry County Adult Detention Center, as it was your duty to do. Reduction to Airman, and a reprimand. (Appeal/Denied) (No mitigation)

(2) 31 May 03, Osan AB, Korea - Article 134. You, were at or near Clovis, New Mexico, on or about 6 Feb 03, disorderly which conduct was of a nature to bring discredit upon the Armed Forces. You, did, at or near Clovis, New Mexico, on or about 25 Feb 03, wrongfully violate a Domestic Violation Order issued by Curry County in the State of New Mexico, which conduct was to the prejudice of good order and discipline in the Armed Forces. Suspended reduction to A1C. Restriction to Base for 45 days, and 45 days extra duty. (Appeal/Granted) (No mitigation)

- e. Additional: Police Report, 14 MAR 04 - Violation of a Domestic Order and assault.
 Police Report, 24 SEP 03 - Battery against a household member.
 Police Report, 30 AUG 03 - Violation of a Domestic Violence Order.
 LOR, 23 APR 02 - Convicted in civil court for assault.

f. CM: None.

- g. Record of SV: 04 Oct 01 - 15 May 02 Cannon AFB 4 (CRO)
 16 May 02 - 15 May 03 Osan AB 3 (Annual)
 16 May 03 - 15 May 04 Cannon AFB 1 (Annual)**REF**

h. Awards & Decs: AFTR, AFLSAR, NDSM, AFOSLTR, AFEM, AFGCM.

- i. Stmt of Sv: TMS: (6) Yrs (7) Mos (5) Das
 TAMS: (6) Yrs (3) Mos (4) Das

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

Issue 1: The discharge resulted from a civil matter between myself and my spouse. My first enlistment ended in an honorable discharge and I have no doubt that the second would have had I had the opportunity to complete my tour. Currently, I have no pending issues. I wish I was about to remove myself from my ex-wife. If so I feel I would still be in the U.S. Air Force today.

ATCH

1. 12 AF/CC Ltr, 01 Jul 04.
2. Honorable Discharge Certificate.
3. Air Force Good Conduct Medal.

22JUN05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 27th FIGHTER WING (ACC)
CANNON AIR FORCE BASE NEW MEXICO

FD2005-00157

MEMORANDUM FOR [REDACTED]

17 MAY 04

FROM: 27 AMXS/CC

SUBJECT: Notification Memorandum – Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct, specifically, a pattern of misconduct prejudicial to good order and discipline. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. 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 10 Mar 02, you assaulted [REDACTED] by forcibly removing her engagement ring from her hand, and slapping her across the face, as evidenced by a Police Report dated 10 Mar 02 and a record of your guilty plea in Clovis Magistrate Court. Because you were confined in the Curry County Adult Detention Facility, you were unable to attend a scheduled FTD class on 11 Mar 02, as evidenced by a Letter of Reprimand dated 23 Apr 02. (Atch a)
 - b. On or about 6 Feb 03, you promised to take your wife to a friend's house after an argument ensued between the two of you. On the way, you stated you wanted to talk with your wife and proceeded past her friend's house. Your wife demanded she be let out of the car and when she attempted to exit the vehicle, you grabbed her hands, prevented her from leaving, and scratched her in the process, as evidenced by a Police Report dated 7 Feb 03, a record of dismissal of charges in Clovis Magistrate Court to allow the Air Force to assume jurisdiction, and an Article 15 action, dated 31 Mar 03. On or about 25 Feb 03, you violated a domestic violence order by forcing your way into your wife's house and yelling at her, as evidenced by a Police Report dated 25 Feb 03 and an Article 15 action dated 31 Mar 03. (Atch b)
 - c. On or about 30 Aug 03, you grabbed your wife's arm and spilled a drink on her at Kelly's Bar. When she left, you followed her to a residence, pulled up into the front yard, and began blowing your horn. You then parked your car in the middle of the street, as evidenced by a Police Report dated 30 Aug 03. Although you were found not guilty of battery and violating a protection order, as evidenced by a record from Clovis Magistrate Court, your actions were clearly inappropriate. (Atch c)
 - d. On or about 22 Sep 03, you sucked on your wife's neck, leaving a large mark, and bit the side of her stomach, also leaving a mark. On or about 24 Sep 03, you pushed [REDACTED] through a doorway and grabbed and pushed your wife, who was holding her two-year-old child, through a doorway, as evidenced by a Police Report dated 24 Sep 03. You pled no contest to battery against a household member, and child abuse and battery charges were dismissed, as evidenced by a Record from Clovis District Court. (Atch d)

e. On or about 14 Mar 04, you entered your wife's home without her permission and in violation of a domestic violence order. You also placed her friend ████████ in a headlock, as evidenced by a Police Report dated 14 Mar 04. (Atch e)

f. On or about 16 Mar 04, you were released from duty early at 0830 hours after agreeing to voluntarily turn yourself into the Curry County Adult Detention Center at 1100 hours. You failed to turn yourself in as promised and your whereabouts were unknown until approximately 1900 hours, after which you were escorted to the Detention Center, as evidenced by a statement dated 17 Mar 04, a Police Report dated 16 Mar 04, and an Article 15 action dated 30 Mar 04. (Atch f)

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 (under honorable conditions) discharge. The commander exercising SPCM jurisdiction or a higher authority will make the 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.

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

5. In the event that you are discharged a medical examination will be scheduled for you.

6. Military legal counsel, bldg 600, x2915 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.

7. Confer with your counsel and reply, in writing, within **7 duty days**, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will 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. If you received 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.

9. 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 your unit orderly room or you may download a copy from <http://afpubs.hq.af.mil/>.

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

11. Execute the attached acknowledgement and return it to me immediately.



Attachments:

- a. Police Report dated 10 Mar 02, Record of Guilty Plea, and Letter of Reprimand dated 23 Apr 02
- b. Police Report dated 6 Feb 03, Record of Dismissal of Charges in Clovis Magistrate Court, Police Report dated 25 Feb 03, and Article 15 action dated 31 Mar 03
- c. Police Report dated 30 Aug 03 and Record from Clovis Magistrate Court
- d. Police Report dated 24 Sep 03 and Record from Clovis District Court
- e. Police Report dated 14 Mar 04
- f. Statement dated 17 Mar 04, Police Report dated 16 Mar 04, and Article 15 action dated 30 Mar 04