

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		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	A93.09	INDEX NUMBER	A67.50	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	CASE NUMBER		
08 Dec 2005	FD-2005-00158		

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.

SIGNATURE OF RECORDER 	SIGNATURE OF BOARD PRESIDENT 
INDORSEMENT	DATE: 12/12/2005
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, EF WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00158

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

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, change of reason and authority for discharge, and change of reenlistment code are 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: Applicant does not contest his discharge. He states the reason for his discharge was caused by conflicts with his supervisor and lack of judgment on his part. He further states that he has accomplished and learned much in the past nine years and wishes to serve his country again. The records indicated the applicant received two Article 15s for failure to go. He also received four Letters of Reprimand and two Letters of Counseling for being later for work, late to a training session, failure to complete additional duties, failure to follow instructions and a civil arrest for DUI, negligent use of a firearm and failure to maintain a traffic lane. 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.

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 SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Kirtland AFB, NM on 7 Mar 96 UP AFI 36-3208, para 5.50 (Pattern of Misconduct). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 27 Mar 67. Enlmt Age: 19 8/12. Disch Age: 28 11/12. Educ: HS DIPL. AFQT: N/A. A-76, E-77, G-68, M-90. PAFSC: 3P031 - Security Journeyman. DAS: 18 Dec 90.

b. Prior Sv: (1) AFRes 13 Dec 85 - 19 Mar 86 (3 months 7 days) (Inactive).

(2) Enlisted as A1C 20 Mar 86 for 4 yrs. Svd: 3 yrs 9 months 22 days, all AMS. SrA - 20 Jan 88. Sgt - 1 Jan 89. SSgt - 1 Jul 89. APRs: 9,9,9,9.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSgt 12 Jan 90 for 4 yrs. Svd: 6 Yrs 1 Mo 23 Das, all AMS.

b. Grade Status: A1C - 27 Dec 95 (Article 15, 27 Dec 95)
SrA - 14 Dec 95 (Article 15, 14 Dec 95)

c. Time Lost: None.

d. Art 15's: (1) 27 Dec 95, Kirtland AFB, NM - Article 86. You did, on or about 19 Dec 95, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to A1C. (No appeal) (No mitigation)

(2) 14 Dec 95, Kirtland AFB, NM - Article 86. You did, on or about 5 Dec 95, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to SrA. (No appeal) (No mitigation)

e. Additional: LOR, 01 DEC 95 - Civil arrest for DUI, Negligent Use of a Firearm, and failure to maintain a traffic lane.

LOR, 17 NOV 95 - Failure to go.

LOR, 24 SEP 95 - Failure to follow instructions.

LOR, 04 APR 95 - Failure to complete additional duties.

LOC, 16 MAR 95 - Late to a training session.

LOC, 31 JAN 95 - Late for work.

f. CM: None.

g. Record of SV: 29 Nov 89 - 07 Jul 90 Tyndall AFB 5 (CRO)
 08 Jul 90 - 07 Jul 91 Kirtland AFB 4 (Annual)
 08 Jul 91 - 07 Jul 92 Kirtland AFB 4 (Annual)
 08 Jul 92 - 07 Jul 93 Kirtland AFB 5 (Annual)
 08 Jul 93 - 07 Jul 94 Kirtland AFB 4 (Annual)
 08 Jun 94 - 01 Jun 95 Kirtland AFB 3 (CRO)

h. Awards & Decs: AFCM, AFLSAR W/1 DEV, AFTR, NDSM, NCOPMER, AFOUA W/1 DEV, AFGCM W/2 DEVS.

i. Stmt of Sv: TMS: (10) Yrs (2) Mos (23) Das
 TAMS: (9) Yrs (11) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 18 Feb 05
 (Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.

10JUN05/ia

AAV

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)	ARMY	MARINE CORPS	NAVY	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
b. NAME (Last, First, Middle Initial)	c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER		
[REDACTED]	E-3		[REDACTED]		

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)	4. DISCHARGE CHARACTERIZATION RECEIVED (X one)	5. BOARD ACTION REQUESTED (X one)
19960307	<input checked="" 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 377 SPS (AFMC) KAFB, NM	<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.)

The reason for my discharge was caused by conflicts with my supervisor and lack of judgment on my part. I have accomplished and learned much in the past nine years and wish to have the opportunity to serve my country again. I am currently employed as a Security Police Officer III for the Department of Energy at Sandia National Laboratories and hold a "Q" clearance. I believe that with my training and experience I could be a great asset to the New Mexico Air National Guard and my country. (cont.)

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.)

9. TYPE OF REVIEW REQUESTED (X one)
<input checked="" type="checkbox"/> 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.
<input type="checkbox"/> 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.
<input type="checkbox"/> 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.)	b. TELEPHONE NUMBER (Include Area Code)
[REDACTED]	[REDACTED]
	c. E-MAIL nlester@sandia.gov
	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.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.)
[REDACTED]	20050529	

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

My reason for wanting to be discharged from the Air Force was a conflict with my supervisor and his rating me an overall "3" on an Evaluation Performance Report. My records reflect my accomplishments for the rating period to be much higher than a "3", and at the time I thought I had exhausted all my options for rebuttal. With the personal conflicts between my supervisor and myself I made an irrational choice to leave the Air Force. I now know that I should have tried harder to correct the problems between my supervisor and myself and tried other avenues to have my evaluation reviewed and corrected. I really enjoyed my 10 years of service and feel that I was a great asset to my country and the United States Air Force.

I request my discharge and reentry code be upgraded, to allow entry into the New Mexico Air National Guard.

Thank you for your consideration.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

DEPARTMENT OF THE AIR FORCE
377th Security Police Squadron (AFMC)

2 Jan 96

MEMORANDUM FOR A1C [REDACTED]

FROM: 377 SPS/CC

SUBJECT: Notification Letter -- Board Hearing

I am recommending your discharge from the United States Air Force for a pattern of misconduct. The authority for this action is AFI 36-3208, paragraph 5.50. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

My reasons for this action are:

- a. On or about 31 Jan 95, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Letter of Counseling, dated 31 Jan 95.
- b. On or about 16 Mar 95, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Letter of Counseling, dated 16 Mar 95.
- c. During your approximate two and one half year tenure as "C" Flight Vehicle NCO, you failed to ensure that numerous personnel within the flight had proper credentials to operate government vehicles on Kirtland Air Force Base. As a result, you received a Letter of Reprimand, dated 4 Apr 95.
- d. On or about 18 Sep 95, you were notified to appear before the NCO of the month board, to be held on or about 21 Sep 95. At this time, you did not mention to your supervisor your upcoming leave schedule. Subsequently you went on leave and missed the board interview. As a result, you received a Letter of Reprimand, dated 24 Sep 95.
- e. On or about 17 Nov 95, you failed to go at the time prescribed to your appointed place of duty. As a result you received a Letter of Reprimand, dated 17 Nov 95.
- f. On or about 26 Nov 95, you were arrested by the Bernalillo County Sheriff's Office for Driving While Under the Influence of Alcohol, Negligent Use of a Firearm, and Failure to Maintain a Traffic Lane. As a result, you lost your installation driving privileges for 1 year, received a Letter of Reprimand, dated 1 Dec 95, and Unfavorable Information File was initiated.
- g. On or about 5 Dec 95, you failed to go at the time prescribed to your appointed place of duty. As a result, you were given an Article 15 with a reduction in Grade to SrA (E-4), effective 14 Dec 95.

h. On or about 19 Dec 95, you failed to go at the time prescribed to your appointed place of duty. As a result, you were given an Article 15 with a reduction in Grade to A1C (E-3), effective 27 Dec 95.

This action could result in your separation with an Under Other Than Honorable Conditions discharge, which is what I am recommending. The commander exercising General Courts-Martial 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.

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.

You ~~have been~~ ^{were} scheduled for a medical examination. ~~Report to~~ ^{at} the Physical Exams section of the Kirtland Air Force Base Hospital, at 0745 hrs on 20 Dec 95.

Military legal counsel Captain [redacted] bldg 20140, ext 6-5553 has been obtained to assist you. An appointment has been scheduled for you to consult him on 11 Jan 96 at 0800 hrs. Instead of the appointed counsel, you may have another, if the lawyer you request is in the 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.

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.

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 Unit Orderly Room.

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

The discharge board, or the discharge authority, will make the finding and recommendations required under 10 U.S.C. 2005(g).

Execute the attached acknowledgment and return it to me immediately.

A large black rectangular redaction covers the signature of the sender.

Lt. Col, USAF

Commander

Attachments:

1. LOC, dated 31 Jan 95
2. LOC, dated 16 Mar 95
3. LOR, dated 4 Apr 95
4. LOR, dated 24 Sep 95
5. LOR, dated 17 Nov 95
6. LOR, dated 1 Dec 95
7. Revocation of Base Driving Privileges, dated 1 Dec 95
8. UIF, dated 1 Dec 95
9. Article 15, dated 11 Dec 95
10. Article 15, dated 26 Dec 95