

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(TIAL)		GRADE	
		SRA	
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

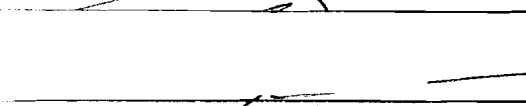
ISSUES	A94.53	INDEX NUMBER	A61.00	EXHIBITS SUBMITTED TO THE BOARD	
				1	ORDER APPOINTING THE BOARD
				2	APPLICATION FOR REVIEW OF DISCHARGE
				3	LETTER OF NOTIFICATION
				4	BRIEF OF PERSONNEL FILE
					COUNSEL'S RELEASE TO THE BOARD
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE
HEARING DATE		CASE NUMBER			
27 Dec 2005		FD-2005-00263			

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.

 _____ INDORSEMENT	SIGNATURE OF BOARD PRESIDENT _____ DATE: 12/28/2005
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-2005-00263

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

ISSUE:

Applicant received a General Discharge for Misconduct – Civilian Conviction. The records indicated the applicant received a Letter of Reprimand for engaging in domestic abuse against his wife, specifically assaulting and communicating threats to her. For these actions, applicant was convicted in a Civilian Court of Assault on a Female and Communicating Threats and received 60 days in jail. The Board concluded the misconduct was a significant departure from conduct expected of all military members and found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. 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

[REDACTED]
[REDACTED]
(Former SrA) (HGH SrA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pope AFB, NC on 18 May 04 UP AFI 36-3208, para 5.51 (Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 17 Oct 79. Enlmt Age: 20 9/12. Disch Age: 24 7/12. Educ: HS DIPL. AFQT: N/A. A-84, E-85, G-70, M-82. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 27 Mar 01.

b. Prior Sv: (1) AFRes 21 Jul 00 - 25 Sep 00 (2 months 5 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Sep 00 for 6 yrs. Svd: 3 Yrs 7 Mo 23 Das, of which AMS is 3 yrs 5 months 17 days (excludes 2 months 6 days lost time).

b. Grade Status: SrA - 14 May 03
A1C - 10 Nov 00

c. Time Lost: 29 Oct 03 - 02 Jan 04 (2 months 6 days).

d. Art 15's: None.

e. Additional: LOR, 14 APR 04 - Communicating a threat to his wife and assaulting her.

f. CM: None.

g. Record of SV: 26 Sep 00 - 15 May 02 Pope AFB 4 (HAF Dir)
16 May 02 - 15 May 03 Pope AFB 5 (Annual)

h. Awards & Decs: AFAM, AFTR, NDSM, AFEM W/1 OLC, AFOUA W/VALOR.

i. Stmt of Sv: TMS: (03) Yrs (07) Mos (22) Das
TAMS: (03) Yrs (05) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 29 Jun 05.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. DD Form 149.

05AUG05/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

FD 2005-00263

23 Apr 04

MEMORANDUM FOR [REDACTED]

FROM: 23AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: Civilian Conviction. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.51. 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 reason for this action is: Between on or about 14 Oct 03 and on or about 17 Oct 03 you engaged in domestic abuse against your wife. Specifically, you assaulted her and communicated threats to her. For these actions, you were convicted in the General Court of Justice for Cumberland County, North Carolina, on 6 Nov 03 of Assault on a Female and of Communicating Threats. You received a sentence of 60 days in jail. These actions and your jail sentence are documented by a Letter of Reprimand (LOR), dated 14 Apr 04, an Incident Report dated 17 Oct 03, and by a judgment from the Cumberland County General Court of Justice dated 6 Nov 03.
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The 43d Airlift Wing Commander, who exercises Special Court Martial (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.
4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. Contact the Area Defense Counsel's office immediately after being served with this notification memorandum. At that time an appointment will be scheduled for you to consult Capt [REDACTED] the Area Defense Counsel. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active duty 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.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 28 April unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. 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.

FD2005-00263

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.



Maj, USAF

Commander

Attachment:

Letter of Reprimand, dated 14 Apr 04

Court Judgment, dated 6 Nov 03

Incident Report, dated 17 Oct 03