

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

(CONFIDENTIAL)		GRADE  <b>AB</b>	
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL YES    No	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
X			

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY

ISSUES <b>A93.01</b>	INDEX NUMBER <b>A67.10</b>	<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		

HEARING DATE <b>27 Jan 2006</b>	CASE NUMBER <b>FD-2004-00144</b>
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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., without the applicant's presence. He did not appear for a scheduled personal appearance. 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.

<b>INDORSEMENT</b>		<b>DATE: 1/27/2006</b>
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-2004-00144

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) and scheduled a personal appearance via video teleconference, but failed to appear.

The following additional exhibits were submitted at the hearing:

None

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. 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 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.

Issue 2. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 22 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct, and also noted he was enlisted in the AF Reserves for 2 years prior to serving on active duty. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 3. The applicant stated he was told his discharge could be upgraded in six months. The DRB noted the issue was common, the result of miscommunication. While a discharge may be upgraded after six months, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

**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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Randolph AFB, TX on 18 Dec 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 7 Sep 80. Enlmt Age: 18 11/12. Disch Age: 22 3/12. Educ: HS DIPL. AFQT: N/A. A-63, E-25, G-27, M-14. PAFSC: 3P031 - Security Police Apprentice. DAS: 7 Jan 02.

b. Prior Sv: (1) AFRes 25 Aug 99 - 27 Sep 01. Svd: 2 yrs 1 month 2 days, of which AMS is 4 months.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 28 Sep 01 for 4 yrs. Svd: 1 Yrs 2 Mo 20 Das, all AMS.

b. Grade Status: AB - 21 Nov 02 (Article 15, 21 Nov 02)  
Amn - 7 Oct 02 (Vacation of Article 15, 21 Nov 02)  
A1C - 28 Jul 02

c. Time Lost: None.

d. Art 15's: (1) 21 Nov 02, Randolph AFB, TX - Article 107. You, did, on or about 18 Oct 02, with intent to deceive, make to SSgt [redacted] Security Forces Investigator, an official statement, to wit: "I was not present during the altercation or see or hear anything," or words to that effect, which statement was totally false, and was then known by you to be so false. Reduction to AB, and 14 days extra duty. (No appeal) (No mitigation)

(2) 21 Nov 02, Vacation, Randolph AFB, TX - Article 107. You, did, on or about 18 Oct 02, with intent to deceive, make to SSgt [redacted] Security Forces Investigator, an official statement, to wit: "I was not present during the altercation or see or hear anything," or words to that effect, which statement was totally false, and was then known by you to be so false. Reduction to Airman. (No appeal) (No mitigation)

(3) 7 Oct 02, Randolph AFB, TX - Article 86. You, did, on or about 24 Sep 02, without authority, fail to go at the time prescribed to your appointed place of duty. Article 91. You, having received a lawful order from

TSgt a noncommissioned officer, then known by you to be a noncommissioned officer, to "work on your CDC's" or words to that effect, an order which it was your duty to obey, did, on or about 24 Sep 02, willfully disobey the same. Suspended reduction to Airman, forfeiture of \$200.00 pay per month for 2 months, and 30 days restriction. (No appeal) (No mitigation)

- e. Additional: LOR, 19 SEP 02 - Missed two mandatory appointments.  
LOR, 16 APR 02 - Misappropriation of a government credit card.
- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFOUA.
- i. Stmt of Sv: TMS: (3) Yrs (3) Mos (24) Das  
TAMS: (1) Yrs (6) Mos (21) Das

**4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Apr 04.  
(Change Discharge to Honorable)

Issue 1: I, would like to request an upgrade on my discharge from honorable under general conditions to honorable. I was discharged over a year and a half ago. At the time of my discharge, I was told if I stayed (sic) out of trouble for six months, I could get my discharge upgraded. The main reason I am requesting an upgrade is for educational purposes. I would like to use my Montgomery G.I. bill (sic) to continue my education. While in the military I had a hard time adapting to the lifestyle of the Armed Forces. I was a security forces member, and I grew frustrated that my schedule would not allow me to attend classes. I joined the military to get an education, save money, travel, get leadership skills, and meet people from different backgrounds from my self.

**ATCH**

1. DD Form 214.

19MAY04/ia



DEPARTMENT OF THE AIR FORCE  
AIR EDUCATION AND TRAINING COMMAND

MEMORANDUM FOR AB \_\_\_\_\_

4 DEC 2002

FROM: 12 SFS/CC

SUBJECT: Notification Memorandum—Administrative Discharge

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is Air Force Policy Directive 36-32 and Air Force Instruction 36-3208, Chapter 5, Paragraph 5.49. If my recommendation is approved, your service will be characterized as Honorable or General. I am recommending your service be characterized as General.

2. My reasons for this action are as follows:

a. On or about 18 Oct 02, you made, with the intent to deceive, to SSgt Security Forces Investigator, an official statement, to wit: "I was not present during the altercation or see or hear anything," or words to that effect, which statement was totally false, and was then known by you to be so false. For this action, you received vacation of Article 15, UCMJ, (dated 7 Oct 02) on 21 Nov 02 and punishment under Article 15, UCMJ, dated 21 Nov 02, which was filed in your Unfavorable Information File (UIF).

b. On or about 24 Sep 02, without authority, fail to go at the time prescribed to your appointed place of duty; and you, having received a lawful order from TSgt a non-commissioned officer, then know by you to be a non-commissioned officer, to "work on your CDC's" or words to that effect, an order which it was your duty to obey, did, on or about 24 Sep 02, willfully disobey the same. For this action, you received an punishment under Article 15, UCMJ, dated 7 Oct 02, which was filed in your UIF.

c. On or about 13 Sep 02, you failed to go at the time prescribed to your appointed place of duty. For this action, you received a Letter of Reprimand (LOR), dated 19 Sep 02.

d. On or about 16 Apr 02, you were derelict in the performance of your duties in that you willfully failed to refrain from using your Bank of America Government Travel Card for other than authorized official travel. For this action, you received an LOR, dated 16 Apr 01.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising special court-martial 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 and will probably be

denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult Cap: \_\_\_\_\_ Area Defense Counsel, Bldg. 399, Room B-40 (7-2274) at 1000 on 12 Dec 02. You may consult civilian legal counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 9 Dec 02 unless you request and receive an extension, in writing, for showing good cause. I will send them to the separation authority.

6. If you fail to consult counsel or submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to FLIGHT MEDICINE at 1410 on 4 Dec 02. You will be seen by Dr \_\_\_\_\_. Please report 15 minutes early.

8. You must report to 12 MSS/DPMARS (Separations), 12 MSS/FMFC (Finance), 12 CES/CEH (Base Housing- \_\_\_\_\_ and 12 MSS/DPS (Family Support Center) within 24 hours of this notification.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act. A copy of AFI 36-3208 is available for your use in the unit personnel office.

10. Execute the attached acknowledgment and return it to me immediately.

~~Lt Col, USAF~~

Commander, 12 SFS

Attachments:

1. Supporting Documents
  - a. AF Form 1137
  - b. Art. 15, dtd 21 Nov 02
  - c. Vacation of Suspended NJP, dtd 21 Nov 02
  - d. Art 15, dtd 7 Oct 02
  - e. Written presentation for Art. 15, undated
  - f. LOR, dtd 19 Sep 02
  - g. LOR, dtd 16 Apr 02
2. Member's Receipt of Notification Memorandum
3. Stmt of Understanding/Recoupment Statement