

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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
					X
					X

ISSUES	A94.11 A01.17 A01.47 A01.42 A99.05	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	27 Jan 2006	CASE NUMBER	FD-2004-00460
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C. The applicant was offered a personal appearance before the Discharge Review Board (DRB) via video teleconference between the Florida State Armory, St. Augustine, Florida and Andrews AFB, MD on 27 January 2006 but declined to exercise this right.

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.

SIGNATURE OF RECORDER	
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INDORSEMENT		DATE: 1/27/2006
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-2004-00460

GENERAL: The applicant appeals for upgrade of discharge to honorable. The applicant was offered a personal appearance before the Discharge Review Board (DRB) via video teleconference between the Florida State Armory, St. Augustine, Florida and Andrews AFB, MD 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 the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE:

Issue 1. Applicant contends he was denied his G.I. Bill educational benefits. He also contends his recruiter lied to him about his military career and that he was not promoted in grade after basic and technical school training based upon his pre-service participation in the Army JROTC Officer program and the JROTC Rifle Team. The Board was sympathetic to the impact the loss of these benefits was having on the applicant and his confusion about the nature of his military career but determined that these issues were not a matter of inequity or impropriety which would warrant an upgrade.

Issue 2. The applicant alleged his supervisor made racial statements and was racially biased. The Board noted that the disciplinary actions against the applicant was undertaken by individuals other than the supervisor identified by the applicant. Despite the applicant's assertions, the Board found no evidence of racial bias in the applicant's discharge.

Issue 3. Finally, the applicant contends that he was "wronged" by this discharge. He further asserted that he hadn't received correctional custody or any type of discharge hearing. The applicant is correct in his assertion. However, his commander was not obligated to punish him with correctional custody under either Article 15, UCMJ action taken against him and the Board believed that sufficient rehabilitative processing was conducted by the applicant's unit prior to his discharge. In addition, because the commander recommended the applicant's separation with a general discharge, the applicant was not a noncommissioned officer, and the applicant had not served more than six years, he had no discharge board entitlement. The Board concluded that the applicant's misconduct, as especially reflected in his numerous offenses under Article 86, UCMJ for failing to go to his appointed place of duty, was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was also found to be appropriate.

Issue 4. The Board noted that the applicant's Air Force Overseas Short Tour Ribbon and his Small Arms Expert Marksmanship Ribbon were not reflected in his commander's recommendation for discharge or the base level legal review. The Board concluded, however, that these omissions did not amount to prejudicial error.

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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Travis AFB, CA on 30 Sep 91 UP AFR 39-10, para 5-47(b) (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 1 Jan 73. Enlmt Age: 17 2/12. Disch Age: 18 8/12. Educ: HS DIPL. AFQT: N/A. A-77, E-66, G-64, M-57. PAFSC: 63130 - Apprentice Fuels Specialist. DAS: 16 Dec 90.

b. Prior Sv: (1) AFRes 15 Mar 90 - 15 Aug 90 (5 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Aug 90 for 4 yrs. Svd: 1 Yrs 1 Mo 15 Das, all AMS.

b. Grade Status: AB - 29 Aug 91 (Article 15, 29 Aug 91)
Amn - 16 Feb 91

c. Time Lost: None.

d. Art 15's: (1) 29 Aug 91, Anderson AFB, Guam - Article 86. You did, on or about 16 Aug 91, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 29 Aug 91, Anderson AFB, Guam - Article 86. You did, on or about 5 Aug 91, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$100.00 pay. Fifteen days restriction, and 15 days extra duty. (No appeal) (No mitigation)

e. Additional: RIC, 16 JUL 91 - Financial irresponsibility.
LOR, 03 JUN 91 - Destruction of government property.
LOR, 28 APR 91 - Failure to go.
AAFES LTR, 14 FEB 91 - Bad check.
DD 1408, 06 JUN 90 - Driving without a driver's license in his possession.

f. CM: None

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM, AFOSSTR, SAEMR.

i. Stmt of Sv: TMS: (1) Yrs (6) Mos (16) Das
TAMS: (1) Yrs (1) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 Oct 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

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

20JAN05/ia

AA

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

Form Approved OMB No. 0704-0004 Expires Aug 31, 2006

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

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

a	LINE CORPS	NAVY	<input checked="" type="checkbox"/>
b	c. GRADE/RANK AT DISCHARGE E-1 (E-3)		

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)

91 SEPT 30

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)

<input type="checkbox"/>	HONORABLE
<input checked="" type="checkbox"/>	GENERAL/UNDER HONORABLE CONDITIONS
<input type="checkbox"/>	UNDER OTHER THAN HONORABLE CONDITIONS

5. BOARD ACTION REQUESTED (X one)

<input checked="" type="checkbox"/>	CHANGE TO HONORABLE
<input type="checkbox"/>	CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
<input type="checkbox"/>	CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
<input type="checkbox"/>	CHANGE NARRATIVE REASON FOR SEPARATION TO:

DEVELOPED AT TRANS AFB, CA

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

I FEEL THAT I HAVE BEEN DEPRIVED OF BENEFITS (HEALTH, EDUCATION, ETC.) IN WHICH I PAID FOR AND/OR EARNED THROUGH MILITARY SERVICE. I WAS UNAWARE UNTIL NOW THAT I COULD BE UPGRADED TO HONORABLE.

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 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 checked="" 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) ATLANTA, GEORGIA (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.

<input type="checkbox"/>	SPOUSE	<input type="checkbox"/>	WIDOW	<input type="checkbox"/>	WIDOWER	<input type="checkbox"/>	NEXT OF KIN	<input type="checkbox"/>	LEGAL REPRESENTATIVE	<input type="checkbox"/>	OTHER (Specify)
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12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)

b. TELEPHONE NUMBER (Include Area Code)

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.)

CASE NUMBER (Do not write in this space.)

a. SIGNATURE REQUIRED (Applicant or person in Item 11 above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

2004 OCT 19

FD 2004-00459

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

I ALSO WAS LIED TO BY MY RECRUITER ABOUT MY MILITARY CAREER, BY TELLING ME THAT I COULD TAKE A TEST FOR A COMPUTER TECH. JOB WHILE IN BASIC TRAINING, NEVER HAPPENED, SO I WAS GIVEN A POSITION AS REFUELER WHICH HINDERED MY GOALS. AT ANY RATE I ACCEPTED MY JOB TO SERVE MY COUNTRY AS AN E-1 to E-3. YET BEFORE I WAS ACCEPTED, I WAS AN ARMY ROTC OFFICER AND A JROTC RIFLE TEAM MEMBER WITH A LETTER FOR 2 YRS. I REALLY WAS EXPECTING AN UPGRADE IN RANK AFTER BASIC OR TECH SCHOOL. YET WHEN I APPROACHED MY SUPERIOR (SSA) ABOUT THIS AT MY DUTY BASE, HE TELLS ME THAT NONE OF MY PREVIOUS TRAINING WOULD NOT UPGRADE, TO JUST GO THROUGH THE BASIC STEPS LIKE EVERYONE ELSE. HE EVEN MADE RACIAL BASED STATEMENTS LIKE "HE NEVER GROW UP AROUND ANY COLORED PEOPLE BUT HE WOULD TRY TO WORK WITH ME." I WAS WRONGED ON THIS DISCHARGE.

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

16. REMARKS (if applicable)

I BELIEVE THAT MY DISCHARGE WAS NOT HANDLED PROPERLY BY MY SUPERIORS. I WAS A DEDICATED SOLDIER DURING WAR TIME AND AFTER THE WAR (DESERT STORM), STATIONED OVERSEAS (PACAF) AT A YOUNG AGE (17-19). I NEVER HAD ANY TYPE OF HEARING ONLY WAS SENT PAPERWORK TELLING ME TO LEAVE BASE (ANDERSON AFB) IN FIVE (5) DAYS. NO TYPE OF CORRECTIONAL CUSTODY, BUT I DID DO EXTRA DUTY BEFORE RECEIVING THE PAPERWORK. I'D PAID FOR MY G.I. BILL AND COULDN'T RECEIVE MY EDUCATION BENEFIT BECAUSE OF THIS DISCHARGE. IF I HAD AN HONORABLE DISCHARGE I COULD COMPLETE MY EDUCATION THAT I PAID FOR AND SERVED FOR.
I ALSO BELIEVE THAT MY SUPERIOR (THEN SSGT) TREATED ME WITH A PREDISJUDICE THAT I DIDN'T DESERVE AS A YOUNG SOLDIER LOOKING TO FURTHER HIS MILITARY CAREER.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

<p style="text-align: center;">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>	<p style="text-align: center;">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p style="text-align: center;">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p style="text-align: center;">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>

FD 2004-00459

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 633D AIR BASE WING (PACAF)
APO SAN FRANCISCO 96334-5000



REPLY TO
ATTN OF: 633 SUPS/CC

13 Sep 91

SUBJECT: Notification Letter

TO: AB

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, conduct prejudicial to good order and discipline. The authority for this action is AFR 39-10, paragraph 5-47b. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 16 Aug 91, you failed to go to your appointed place of duty. (Atch 1, Article 15 dated 29 Aug 91)

b. On or about 5 Aug 91, you failed to go to your appointed place of duty. (Atch 2, Article 15 dated 22 Aug 91)

c. On or about 5 July 91, you failed to pay your account at the Enlisted Open Mess. (Atch 3, AF Form 174 dated 16 Jul 91)

d. On or about 25 May 91, you willfully damaged government property by punching a hole in a bathroom door. (Atch 4, LOR/UIF dated 3 Jun 91)

e. On or about 28 Apr 91, you failed to report to your appointed place of duty. (Atch 5, LOR dated 28 Apr 91)

f. On or about 14 Feb 91, you wrote a bad check to the Guam Main Exchange. (Atch 6, AAFES Form 7200-75 dated 14 Feb 91)

g. On or about 6 Jan 91, you violated AFR 125-14 by driving without a drivers license in your possession. (Atch 7, DD Form 1408 dated 6 Jun 90)

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.

You have the right to consult counsel. Military legal Counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel, Captain _____, Bldg 21000, 366-2281 at 0900 hours 16 SEP 91. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 18 SEP 91 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the 633d Medical Group at 0730 hours on 23 Sept 91 for the examination.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the Unit Orderly Room.

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

Commander

Lt Col, USAF

8 Atchs

1. Art 15, 29 Aug 91
2. Art 15, 22 Aug 91
3. AF Fm 174, 16 Jul 91
4. AF Fm 1058, 3 Jun 91
5. LOR, 28 Apr 91
6. AAFES Fm 7200-75,
14 Feb 91
7. DD Fm 1408, 6 Jun 90
8. Rcpt for
Notification Ltr