

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL.) ----- -----		GRADE SSGT	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>														
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW														
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ISSUES A94.05	INDEX NUMBER A67.50 A67.30	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td style="text-align: center;"> </td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td style="text-align: center;"> </td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td style="text-align: center;"> </td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>		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
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HEARING DATE 10 Mar 2006	CASE NUMBER FD-2004-00489																
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 BOARD MEMBER <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>		SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>															
INDORSEMENT		DATE: 3/27/2006															
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-2004-00489

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

ISSUE:

Applicant contends discharge was inequitable because it was too harsh and contends he should have been notified of all punitive UCMJ actions being considered against him. The records indicated that an Administrative Discharge package was staffed through command channels for member's misuse of his Government American Express Card by making unauthorized charges and failing to pay the balance due. The discharge package provided documentation of the unit's efforts to contact applicant at time of processing the discharge package. A legal review determined package was legally sufficient and recommended the commander discharge member with a General discharge. 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.

The DRB recognized the fact that the applicant had served over thirteen years total service before the discharge was initiated, but concluded the applicant's misconduct outweighed the positive aspects of his time in the Air Force.

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 SRA) (HGH SSGT)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Peterson AFB, CO on 6 Aug 98 UP AFI 36-3209, para 3.21.3.4 (Pattern of Misconduct - Commission of a Serious Offense - Other Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 11 Mar 60. Enlmt Age: 23 1/12. Disch Age: 28 4/12. Educ: HS DIPL. AFQT: N/A. A-68, E-72, G-65, M-41. PAFSC: 2A551 - Aerospace Maintenance Journeyman. DAS: 20 Jul 94.

b. Prior Sv: (1) USARes 28 Apr 83 - 09 May 83 (12 days) (Inactive).

(2) Enlisted US Army as Pvt(E1) 10 May 83 for 3 yrs. Reenlisted as SP4(E4) 14 Jan 86 for 5 yrs. Svd: 7 yrs 11 months 8 days, all AMS. Sgt(E5)-12 Oct 86. No performance reports.

(3) Enlisted USAFRes as SSgt(E5) 28 Jun 91 for 6 yrs. Svd: 5 yrs 8 months 4 days, of which AMS is 8 months 23 days. No performance reports.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted USAFRes as SSgt(E5) 2 Mar 97 for 6 yrs. Svd: 00 Yrs 05 Mo 05 Das, all Inactive.

b. Grade Status: SrA - 5 Mar 98 (Demotion letter, 5 Dec 97) (Missing from file).

c. Time Lost: None.

d. Art 15's: Unknown.

e. Additional: Financial Irresponsibility - Abused government American Express Card by making unauthorized purchases and by failing to pay the balance.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: ARGCM W/2 DEVS, SAEMR, AROSSR W/2 DEVS, AFTR, ARMY NCO PPRO DEV RBN, NDSM, ARSR, ARAM W/2 DEVS, ARFMERSM.

i. Stmt of Sv: TMS: (15) Yrs (03) Mos (07) Das
TAMS: (08) Yrs (08) Mos (04) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02 Dec 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 149.
3. American Express Letter in Receipt of Payment.
4. Letter of Explanation and Discharge Upgrade Request.
5. Conduct of An Article 15.

27SEP05/ia

RE: LETTER OF EXPLANATION and Request to change Discharge status from General under Honorable Conditions to full "Honorable" status:

Thursday, December 02, 2004

To Whom It May Concern:

Due to what I believe is an administrative error reducing my rank to Senior Airman, plus being discharged with a general under honorable conditions, I would very much like a review board to look at the evidence on file from an outstanding bill from American Express telling me I never paid the bill, thus, barring me from reenlistment and continuing my duties with the Air force Reserves. The debt was in deed paid. I also found out that I deliberately defied regulation using the card while on a personal trip. I only used the American Express Government Card when I received permission from American Express to put the remaining charges on the government card as long as I paid the bill immediately upon my return from Orlando's Disney World on 22 May 1997. There was NO intent to deceive anyone or any government agency in the matter with American Express. My two personal credit cards from Capital One and First Bank of Colorado were stolen along with other contents in my wallet at the hotel I was staying at in Disney World. Thus, I phoned AMEX Gov Card Services immediately and spoke with Mr. Fernandez to get permission to use this card in this instance so I could basically get home. I then phoned my finance office at Peterson AFB and spoke with a woman SSGT who informed me *"as long as the debt is paid, no questions will be asked, but be ready to explain the situation should it ever arise and get a name SSGT Gamblin"*. I told her, *"fine, will do"*. I assure the members that are reviewing this information that there was again, NO intent to fraudulently use the American Express Government Card Account.

This could pose a problem if a records check for government employment should ever be needed. This is clearly not my fault and American Express Government Card Services knows this as mentioned in the enclosed letter from August of 1997.

I should have been notified of all punitive UCMJ action being considered against me IAW FM 27-1, FM 2701, and Article 138¹. The unit had my address and phone number + I kept in contact with the unit after my resignation letter was sent in for review. I was never notified of such actions against me while still in the unit at home even before my resignation letter was sent. I should have received a notification of appeal or something in accordance with my rights under UCMJ. According to regulation, my rights were clearly not adhered to. According an exert of Chapter 4 from FM 27-1, as an example in the highlighted areas indicated on the following pages, the procedure of UCMJ action was clearly not followed properly to what the regulation is saying.

Because of the above-mentioned information, this action taken against me, plus, how it ended up in my records up to the time of discharge should be invalid. Correct procedure was, in accordance with the for mentioned regulation, never was followed properly during this whole matter.

¹ Article 138 of the Uniform Code of Military Justice (UCMJ) gives every member of the Armed Forces the right to complain that he or she was wronged by his or her commanding officer. The right even extends to those subject to the UCMJ on inactive duty for training or being considered for administrative discharge.

I am asking the board to consider the following in correcting the negative information in my file and return my rank to E-5 with an upgrade in discharge to full "Honorable" status. Below, if this board finds that certain injustice was done, can take the necessary highlighted action;

Set-aside. You may set aside an Article 15 when you are convinced that an injustice has occurred. When you set aside an Article 15, return all rights, privileges, and property. A set-aside would be appropriate, for instance, in a case in which new evidence or information proves the accused is innocent.²

Finally, as a final comment to the review officer/board, I want to express my deepest thanks in taking your valuable time in reviewing this information for me. There was **NEVER** any intent to defraud the government on any level of the mentioned offenses in my records. I had an excellent service record and was being considered for a TDY tour to Oman when this situation came about. I am a good honest person that has served his country well in peacetime and war. I would appreciate your attention in this matter.

Sincerely:



Copy of Original

²Exert from AR 27-10, 27-1 CHAPTER 4 Nonjudicial Punishment PROVISIONS OF UCMJ / Rights under Article 138 Uniform Code of Military Justice



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

FD2004-00489



17 APR 1998

MEMORANDUM FOR:



FROM: HQ AFRC/DP
155 2nd St
Robins AFB GA 31098-1635

SUBJECT: Notification of Initiation of Separation Action under AFI 36-3209

1. By this memorandum, separation action is being initiated against you for misconduct, commission of a serious offense, other serious offense. The authority for this separation action is AFI 36-3209, Chapter 3, paragraph 3.21.3.4. Information regarding your entitlement to submit statements about your case, the lawful usage of such statements and their disclosure is provided in the attached Privacy Act Statement (Atch 1). A description of the reasons for this separation action is set forth in the attached Statement of Reasons (Atch 2) along with supporting documents. AFI 36-3209 is available for your review at your servicing Military Personnel Flight. The types of separation authorized are Honorable, General (Under Honorable Conditions) and Under Other Than Honorable Conditions. The type of separation recommended in your case is a General (Under Honorable Conditions) Discharge.

2. Within 24 hours after you receive this memorandum, you must complete and return the attached acknowledgment of receipt (Atch 3) of this memorandum and the attachments thereto.

3. The following is a summary of your rights:

a. You are entitled to consult with a military legal counsel who is qualified under Article 27(B)(1), Uniform Code of Military Justice (UCMJ), at no cost to you. You may also consult with civilian legal counsel of your choice, but at your own expense. Captain [redacted], a Judge Advocate who is qualified under Article 27(B)(1), UCMJ, has been designated to represent you in connection with this separation action. Her mailing address is HQ AFRC/JAS, 155 2nd St, Robins AFB GA 31098-1635. Her phone numbers are DSN 497-1588, 1-800-458-5391, or (912) 327-1588.

b. You have the right to submit pertinent statements and/or documents in your behalf which you desire to be considered in the disposition of your case. If you elect to exercise your right to submit statements, and you return the attached form (Atch 4) within 15 days of receipt, you may submit statements or documents at any time during the administrative discharge process. Your decision on requesting or waiving the board hearing does not affect your right to submit statements or documents during the administrative discharge process. The form must be signed either by you or your legal counsel and returned to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635.

c. If you need additional time to respond to this separation action, either you or your legal counsel may submit a written request to HQ AFRC/DPM, 155 2nd St, Robins AFB GA 31098-1635, for an extension of time, stating why you need the extra time and how much you'll need. The request must be submitted in sufficient time to reach this office within 15 days after receipt of this memorandum.

4. You are eligible for an administrative discharge board. Within 15 days after you receive this memorandum, you may request to have your case heard by an administrative discharge board at this headquarters by completing and returning the attached form (Atch 5) requesting a board hearing. If you desire a board hearing, you must mail the completed form in sufficient time to reach this headquarters within 15 days after your receipt of this memorandum. Otherwise, your right to have your case heard by an administrative discharge board will be considered waived. Within 15 days after you receive this memorandum, you may waive your right to have your case heard by an administrative discharge board by completing and returning the attached form (Atch 6), evidencing your waiver. Information regarding an administrative discharge board is provided at Attachment 7.

5. You are not eligible to apply for transfer to the Retired Reserve.

6. You should note that failure to respond on the selection of one of these options, or failure to request a delay within 15 days after you receive this memorandum, will constitute waiver of all your rights. This includes the right to have your case heard by an administrative discharge board, and will result in your case being processed on the basis of all the evidence then available.

7. Return envelopes are attached (Atch 8) for your convenience.



Director of Personnel

Attachments:

1. Privacy Act Statement
2. Statement of Reasons w/
Supporting Documentation
3. Acknowledgment of Receipt
4. Selection of Rights
5. Request for Board Hearing
6. Waiver of Board Hearing
7. Discharge Board Info
8. Envelopes (2)

cc:

HQ AFRC/JAS
302nd MSS/DPMSA wo Attachments