

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE AB	AFSN/SSAN
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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	A94.05	INDEX NUMBER	A67.90	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
15 Feb 2006	FD-2005-00270

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.

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 
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INDORSEMENT

DATE: 2/22/2006

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00270

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.

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 discharge was inequitable because he failed to obey a direct order to take Anthrax Vaccination. At the time it was mandatory and he contends the policy has changed and members are no longer required to take vaccination. The records indicated the applicant received two Articles 15s for willfully disobeying a lawful order on two separate occasions. 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Robins AFB, GA on 25 Aug 99 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 21 Oct 78. Enlmt Age: 17 2/12. Disch Age: 20 10/12. Educ: HS DIPL. AFQT: N/A. A-41, E-53, G-64, M-21. PAFSC: 3C051 - Comm-Computer Systems Operations Journeyman. DAS: 01 Dec 96.

b. Prior Sv: (1) AFRes 22 Feb 96 - 09 Jul 96 (4 months 18 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 10 Jul 96 for 4 yrs. Svd: 03 Yrs 01 Mo 16 Das, all AMS.

b. Grade Status: AB - 13 Jul 99 (Article 15, 13 Jul 99)
Amn - 25 Jun 99 (Article 15, 25 Jun 99)
A1C - 10 Nov 97
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 13 Jul 99, Robins AFB, GA - Article 90. You, having received a lawful command from Lt Col your superior commissioned officer, then known by you to be your your superior commissioned officer to "immediately report to the Allergy/Immunology Clinic, 78th Medical Group, Building 700, Robins AFB, GA and receive the anthrax vaccination," or words to that effect, did, on or about 30 Jun 99, willfully disobey the same. Reduction to AB, and a reprimand. (No appeal) (No mitigation)

(2) 25 Jun 99, Robins AFB, GA - Article 90. You, having received a lawful command from Lt Col your superior commissioned officer, then known by you to be your superior commissioned officer to "immediately report to the Allergy/Immunology Clinic, 78th Medical Group, Building 700, Robins AFB, GA and receive the anthrax vaccination," or words to that effect, did, on or about 15 Jun 99, willfully disobey the same. Reduction to Airman, 15 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 10 Jul 96 - 09 Mar 98 Robins AFB 3 (Initial)
10 Mar 98 - 09 Mar 99 Robins AFB 4 (Annual)

h. Awards & Decs: AFTR, AFEM, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (06) Mos (04) Das
TAMS: (03) Yrs (01) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 08 Jul 05
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

11AUG05/ia

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i>		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 the Department of Defense, Executive Services and Communications Directorate (0704-0004). 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 ORGANIZATION. 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 <i>(The person whose discharge is to be reviewed).</i> PLEASE PRINT OR TYPE INFORMATION.		
a. BRANCH OF SERVICE <i>(X one)</i>		ARMY <input type="checkbox"/> MARINE CORPS <input type="checkbox"/> NAVY <input type="checkbox"/> AIR FORCE <input checked="" type="checkbox"/> COAST GUARD <input type="checkbox"/>
b. NAME <i>(Last, First, Middle Initial)</i>		c. GRADE/RANK AT DISCHARGE E-1
d. SOCIAL SECURITY NUMBER		
2. DATE OF DISCHARGE OR SEPARATION <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i> 1998 08 25		4. DISCHARGE CHARACTERIZATION RECEIVED <i>(X one)</i>
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION Robins Air Force Base Warner Robins, GA		HONORABLE <input type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input checked="" type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS <input type="checkbox"/> BAD CONDUCT <i>(Special court-martial only)</i> <input type="checkbox"/> UNCHARACTERIZED <input type="checkbox"/> OTHER <i>(Explain)</i> <input type="checkbox"/>
5. BOARD ACTION REQUESTED <i>(X one)</i>		
CHANGE TO HONORABLE <input checked="" type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> <input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO: <input type="checkbox"/>		
6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST <i>(Continue in Item 14. See instructions on Page 3.)</i> The Reason for this request is because I was discharged from the Air Force for failure to obey A direct order, That direct order was to take the Anthrax Vaccination which at the time was considered unsafe because		
7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON <i>(YYYYMMDD)</i> 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: <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i>		
9. TYPE OF REVIEW REQUESTED <i>(X one)</i>		
<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 <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD.		
<input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> 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 <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> . <i>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</i>		
10.a. COUNSEL/REPRESENTATIVE <i>(If any)</i> NAME <i>(Last, First, Middle Initial)</i> AND ADDRESS <i>(See Item 10 of the instructions about counsel/representative.)</i>		b. TELEPHONE NUMBER <i>(Include Area Code)</i>
		c. E-MAIL
		d. FAX NUMBER <i>(Include Area Code)</i>
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 <i>(print)</i> 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 <i>(Specify)</i>		
12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE <i>(Forward notification of any change in address.)</i>		b. TELEPHONE NUMBER <i>(Include Area Code)</i>
		c. E-MAIL
		d. FAX NUMBER <i>(Include Area Code)</i>
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. <i>(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.)</i>		CASE NUMBER <i>(Do not write in this space.)</i> FD2005-00270
a. SIGNATURE - REQUIRED <i>(Applicant or person in Item 11 above)</i>		b. DATE SIGNED - REQUIRED <i>(YYYYMMDD)</i> 2005 07 08

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

they Actually put a dose of Anthrax in your System. This shot was fairly new to the military and in my opinion there wasnt enough information to support whether this shot would or would not have long term effects. I gathered a Substantial amount of information about the Gulf War Syndrome and how a lot of the Soldiers came back from the Gulf war and couldn't have kids and other serious medical problems. I was 20 years old at the time with no kids and even though I had hopes of retiring from the Air Force I didn't think risking my health was worth it. Evidently someone with more power or Rank than myself felt the same As I did because in 1994 when I refused the vaccination it was mandatory and here today in 2005 they don't even offer the shot anymore. Therefore I feel my discharge should be upgraded because the same reason I denied

the shot (be 4 years by

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

is probably the same reason they don't offer it today, they don't know what the ~~the~~ After Effects will be. So I'm requesting that my Discharge ~~was~~ be upgraded from General/under Honorable Conditions to Honorable.

DEPARTMENT OF DEFENSE OFFICE OF THE SECRETARY OF DEFENSE
ATTENTION: DISCHARGE REVIEW BOARD
1215 PENTAGON AVE
WASHINGTON DC 20304-6000

1. I was discharged from active military service on 10/1/68 under the conditions of a General Discharge with Honorable Conditions. I am requesting that my discharge be upgraded to an Honorable Discharge.

2. I was discharged from active military service on 10/1/68 under the conditions of a General Discharge with Honorable Conditions. I am requesting that my discharge be upgraded to an Honorable Discharge.

3. I was discharged from active military service on 10/1/68 under the conditions of a General Discharge with Honorable Conditions. I am requesting that my discharge be upgraded to an Honorable Discharge.

4. I was discharged from active military service on 10/1/68 under the conditions of a General Discharge with Honorable Conditions. I am requesting that my discharge be upgraded to an Honorable Discharge.



DEPARTMENT OF THE AIR FORCE
93 AIR CONTROL WING (ACC)
ROBINS AIR FORCE BASE, GEORGIA

FD2005-00270

MEMORANDUM FOR AB

10 AUG 1999

FROM: 93 CSS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2. I am recommending that your service be characterized as honorable or general. If my recommendation is approved, your service will be characterized as general.

2. My reasons for this action are:

a. You, having received a lawful command from Lieutenant Colonel your superior commissioned officer, to "immediately report to Military Public Health, 78th Medical Group, Robins Air Force Base, Georgia and receive the anthrax vaccination" or words to that effect, on 15 June 1999, willfully disobeyed the same. For this you received an Article 15, Nonjudicial Punishment, dated 18 June 1999, which was used to establish your current Unfavorable Information File (UIF).

b. You, having received a lawful command from Lieutenant Colonel your superior commissioned officer, to "immediately report to Flight Medicine, Building 207, Robins Air Force Base, Georgia and receive the anthrax vaccination" or words to that effect, on 30 June 1999, willfully disobeyed the same. For this you received an Article 15, Nonjudicial Punishment, dated 9 July 1999. This was added to your current UIF.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a 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.

4. 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, ext 6-5852, at building 368, on 10 August 1999, at 1300 hours.** You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me **within three duty days of the date of this letter** 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.

7. You have been scheduled for a physical examination on Wednesday, 11 August 1999, at 0730 hours. You must report to Physical Exams Section, Building 207. Your follow-up appointment will be at Flight Medicine following your appointment at the Physical Exams Section. You *must* be in uniform and have your medical records with you.

8. 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 Area Defense Counsel or your unit orderly room.

Commander U

Attachments:

1. Supporting documents
 - a. Written order dtd 15 Jun 99
 - b. MFR dtd 13 May 99
 - c. Written order dtd 30 Jun 99
 - d. AF Form 3070 dtd 18 Jun 99
 - e. AF Form 3070 dtd 9 Jul 99
 - f. AF Form 1137
 - f. EPRs
2. Airman's Receipt of Notification Memorandum