

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

INITIAL)

GRADE

SSGT

| | | | | |
|-----------------|----------|-------------------------------------|--|----------------------|
| 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+* |
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| | | | | X+* |

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| ISSUES A92.01 A92.03 | 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 | | |

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| HEARING DATE 14 Feb 2006 | CASE NUMBER FD-2005-00302 |
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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.

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.

+ RE Code
* Reason and Authority

SIG
K

INDORSEMENT

DATE: 2/16/2006

| | |
|---|--|
| 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-2005-00302

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code 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.

ISSUES:

1. Applicant contends discharge was inequitable because it was unrepresentative of his military service. The records indicated the applicant received a civilian conviction for misconduct. The misconduct was for possession of a handgun on school property and endangering the welfare of children when the weapon was accidentally discharged. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. The DRB recognized the fact that the applicant had completed 16 years total military service before the discharge was initiated, but concluded the applicant's misconduct outweighed the positive aspects of his time in the Air Force. The Board noted the applicant was entitled to request an administrative discharge board, but chose to waive this right. 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.

2. Applicant requests that the Board retroactively date his discharge to read 28 Aug 2002, the actual date of his civilian conviction. The Board noted that it is not in the purview of this board to change dates. No action was taken on this request. Applicant will be notified to contact the Air Force Board of Corrections for Military Records.

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 SSGT) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pittsburgh ARS IAP, PA on 8 Oct 04 UP AFI 36-3209, para 3.21.4 (Misconduct - Civilian Conviction). Appeals for Honorable Discharge, Change Reason and Authority for Discharge or Change Date of Discharge.

2. **BACKGROUND:**

a. DOB: 13 Jul 70. Enlmt Age: 17 5/12. Disch Age: 34 2/12. Educ: HS DIPL. AFQT: N/A. A-94, E-93, G-94, M-74. PAFSC: 1N051 - Intelligence Journeyman. DAS: 22 Oct 01.

b. Prior Sv: (1) AFRes 08 Jan 88 - 29 Aug 88 (7 mos 22 das) (Inactive).

(2) Enlisted as AB on 30 Aug 88 for 4 years. Svd: 3 yrs 09 mos 16 das. Amn - 28 Feb 89. A1C - 28 Dec 89. SrA - 30 Aug 91. EPRs: 3, 4, 4.

(3) IRR on 16 Jun 92 - 29 Aug 94 (All Inactive Service).

(4) Enlisted PA ANG 30 Aug 94 for 6 yrs. Svd: 5 yrs 06 mos 11 das, of which AMS is 3 yrs 2 mos 5 das. SSgt - 1 Feb 96.

(5) Navy Res from 11 Feb 00 to 25 Feb 00; Svd: 15 das of which all was AMS.

(6) Reenlisted ANG 11 Mar 00 for 6 years. Svd: 1 yr 08 mos 21 das, of which AMS is 1 yr 07 mos 11 das.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted AF Res 2 Dec 01 for 6 years. Svd: 2 Yrs 10 Mo 07 Das, of which AMS is 06 mos 05 das.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: CIVILIAN CONVICTION, 28 AUG 02 - Possession of Weapon on school property and endangering welfare of children.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: CRM, AFLSA, SWASM W/2 DEV, AFTR, NDSM, AFOSLTR, KLM, AFOUA, AFAM W/1 DEV, AFGCM, ANGCM, ARFMSM.

i. Stmt of Sv: TMS: (16) Yrs (01) Mos (09) Das
TAMS: (08) Yrs (01) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 22 Dec 04.

(Change Discharge to Honorable, Reason and Authority for Discharge or Date of Discharge.)

Issue 1: I would ask the board take one of two actions. Ideally, I would ask that the discharge be upgraded to honorable, as my off-base convictions are unrepresentative of my ten-plus years of exemplary, unblemished service in the (active duty) Air Force, PA Air National Guard and Air Force Reserves. If the board is unwilling to do so than please void, "Misconduct, Civilian Conviction," as it penalizes me two additional years from serving in any active duty, reserve or guard capacity. In lieu of such an omission retroactively date my discharge to read 28 August 2002 - the actual date of my civilian conviction. August 11, 2004 reflects the date the USAFR ultimately outprocessed me - an action initiated more than two years earlier.

ATCH

1. Letter from PAARNG concerning reenlistment eligibility.
2. Discharge Order.

27Sep05/day

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**DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND**

**MEMORANDUM FOR 911 AW/SJA
9111 MSF/DPMSAR
IN TURN**

29 January 2003

**FROM: 911 OG/CC
Pittsburgh IAP ARS
Coraopolis PA 15108**

SUBJECT: Administrative Discharge, SSgt

1. I recommend that SSgt _____ be discharged from the Air Force Reserve IAW AFI 36-3209, Chapter 3, Section D for the reasons outlined in paragraphs 3.21.4, Civilian Conviction. The specific reason for the proposed discharge is SSgt _____ guilty plea to possession of weapon on school property and endangering the welfare of children.

2. Type of separation: **Under Other Than Honorable Conditions**

3. Information from the military record follows:

- a. Date and term of enlistment: **22 Oct 2001, 6 years**
- b. Date entered IADT: **N/A**
- c. Date of birth: **13 July 1970**
- d. Test scores: **M-74, A-94, E-93, G-94**
- e. Formal training completed: **Unknown**
- f. Date assigned to current unit of assignment: **22 Oct 2001**
- g. Length of prior service, active and inactive: **13 years, 01 month, 22 days**
- h. Promotions and dates thereof: **Staff Sergeant, effective 1 Feb 1996**
- i. Demotions, if any, and reasons and dates thereof: **None. At this time, an administrative demotion action would result in further delay of this separation action. Due to the seriousness of this situation, further delay would not be in the best interest of the United States Air Force.**
- j. Time lost: **None**
- k. Record of disciplinary actions. Include action under Article 15, UCMJ, or state military code listing specific offenses: **None**

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l. Conviction of courts-martial. Specify offenses, findings, sentence: None

m. Overall ratings on member performance report: 3 (29 April 1990), 4 (29 April 1991), and 4 (29 Apr 10 December 1991)

n. Favorable communications, citations, or awards. **Pennsylvania Commendation Medal, Air Force Achievement Medal with one oak leaf cluster, Combat Readiness Medal, AF Longevity Service Award, Southwest Asia Service Medal, AF Training Ribbon, National Defense Service Medal, AF Overseas Long Tour Ribbon, AF Good Conduct Medal, Armed Reserve Forces Meritorious Service Medal, Air Force Outstanding Unit Award, and Kuwait Liberation Medal**

o. Derogatory data, other than action by courts-martial or under Article 15, UCMJ or state military code: None

p. Medical or other data meriting consideration: None

q. For members who have not completed initial training (basic or technical), summarize progress or describe failures to progress: N/A

4. I have/have not conducted formal counseling with member.

5. In my judgment, this should/should not be reported under AFI 71-101.

4

Colonel, USAFR
Commander, 911 Operations Group

Attachments:

1. Affidavit of Probable Cause
2. ICIS - 306A Charge Inquiry
3. ICIS - 306A Inquiry
4. Court Order, County of Allegheny, Criminal Division
5. Order of Court, Sentencing
6. Itemized Account of Fines/Costs - Restitution
7. Pennsylvania Statutes (1 of 3 Documents)
8. Memorandum for 911 MSF/DPMSAR, dated 29 November 2002
9. Memorandum for 911 OG/CC, dated 11 October 2002