

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST FIRST MIDDLE INITIAL)		GRADE SSGT		
TYPE GEN		PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION		
YES	No	ADDRESS AND OR ORGANIZATION OF COUNSEL		
	X			

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X +*
					X +*
					X +*
					X +*
					X +*

ISSUES	A93.11 A92.01 A93.07 A93.09	INDEX NUMBER	A67.10	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	13 Feb 2006	CASE NUMBER	FD-2005-00321
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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.

+ Change RE Code
* Change Reason and Authority

INDORSEMENT		DATE: 2/14/2006
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-2005-00321

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 are 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 too harsh. The records indicated the applicant received an Article 15, two Letters of Reprimand, and a civilian court conviction for misconduct. The misconduct included disobeying a lawful order by having contact with a woman not his wife, making unauthorized non-official purchases on his government travel card in the amount of \$2896.00, a civilian court conviction for false reporting, failure to provide adequate support for his wife and children, and involvement in inappropriate relationships with the spouses of other squadron members. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board discussed the financial and family problems that the applicant stated he was having at the time of his discharge. 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 states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports and other accomplishments. The Board found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The DRB concluded the discharge was appropriate for the reasons which were the basis for this case.

3. The DRB recognized the fact that the applicant had served twelve 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. The Board noted the applicant was entitled to request an administrative discharge board, but waived this right.

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 Charleston AFB, SC on 17 Sep 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for an Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 6 Dec 71. Enlmt Age: 19 7/12. Disch Age: 32 9/12. Educ: HS DIPL. AFQT: N/A. A-35, E-50, G-48, M-60. PAFSC: 2T370 - Special Purpose Vehicle & Equipment Maintenance Journeyman. DAS: 9 Jan 03.

b. Prior Sv: (1) AFRes 30 Jul 91 - 11 Nov 91 (3 months 13 days) (Inactive).

(2) Enlisted as AB 12 Nov 91 for 4 yrs. Extended 20 Oct 93 for 14 months. Reenlisted as SrA 9 Nov 95 for 6 yrs. Extended 28 Feb 00 for 2 months. Svd: 9 yrs 11 months 23 days, all AMS. AMN - 12 May 92. A1C - 12 Mar 93. SrA - 12 May 94. SSGT - 4 May 98. EPRs: 5,5,5,5,5,5,5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SSGT 5 Nov 01 for 6 yrs. Svd: 02 Yrs 10 Mo 12 Das, of which AMS is 02 yrs 10 months 9 days (excludes 3 days lost time).

b. Grade Status: None.

c. Time Lost: 26 Feb 04 thru 29 Feb 04 (3 days).

d. Art 15's: (1) 5 Apr 04, Charleston AFB, SC - Article 92. You, having knowledge of a lawful order issued by MSGT [redacted] to wit: do not have any contact with Ms. [redacted], or words to that effect, an order which it was your duty to obey, did, on or about 7 Mar 04, fail to obey the same by wrongfully driving onto Charleston AFB with Ms. [redacted] as your passenger. You, who knew or should have known of your duties within the continental United States, on divers occasions between on or about 10 Jan 04 and on or about 26 Feb 04, were derelict in the performance of those duties in that you willfully failed to refrain from using your Bank of America Government Travel Card for non-official expenses by making unauthorized purchases in the amount of \$2896.00, as it was your duty to do. Suspended reduction to SrA (Remitted on 17 May 04). Suspended forfeiture of \$500.00 pay per month for two months

(Remitted on 17 May 04). Reprimand. (No appeal) (No mitigation)

- e. Additional: 09 JUL 04 - Civil Court Conviction for False Reporting.
LOR, 18 NOV 03 - Failure to provide adequate financial support for your wife and children.
LOR, 30 DEC 02 - Involved in inappropriate relationships.

f. CM: None.

- g. Record of SV: 9 Aug 01 - 8 Aug 02 Offutt AFB 4 (Annual)
9 Aug 02 - 8 Aug 03 Kunsan AB 5 (Annual)
9 Aug 03 - 8 Aug 04 Charleston AFB 1 (Annual) REF

h. Awards & Decs: AFAM, AFCM, AFEM, NCOPMER, SAEMR, NDSM W/1 OLC, AFOSLTR, AFSM, AFTR, AFLSA W/2 OLCS, AFOSSTR, NATOM, AFOUA W/4 OLCS, AFGCM W/3 OLCS.

- i. Stmt of Sv: TMS: (13) Yrs (01) Mos (15) Das
TAMS: (12) Yrs (10) Mos (03) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 18 Jun 05.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

14SEP05/ia

I requested my discharge from the Air Force after serving twelve years, ten months. At time of my request I was going through a divorce. My soon to be ex-spouse during that time was calling my First Sgt and talking me down. She also got a First Sgt involved from the base I PCSed from who contacted my gaining base, giving them false info and creating problems for me before I even arrived. I had to take extra leave, which put me in the negative balance due to my spouse's unwillingness to move out of base housing so I could clear it. She had also gotten a credit card in my name while I was gone in Korea. Just before I left, we had filed bankruptcy to help clear our debts. The final blow was when the Nebraska court system awarded her more than seventy percent of my pay, to include BAS, and BAH for child support. I already had a previous order to pay five hundred and eighty in child support from a previous marriage. I was not making enough to survive, so instead of getting kicked out for financial irresponsibility I asked for a discharge.

My records would show that I was a model Airman. Sra below the zone, SSgt before six years, and all five EPR ratings until I asked for my divorce. After asking my spouse for the divorce, she proceeded to harass my chain of command to get back at me because she did not want the divorce. None of her complaints could be backed up. I was told the Air Force had to do something to appear like they had done their part for her. I was given a one rating on my last EPR and told a career change would be good. Basically I was told in other words that things would not get better. That my career was over, or at least I was lead to believe it was.

In closing I would like to say that I never really wanted to get out for the Air Force. It was just suggested that my career was looking grim. I loved my job and I wanted to further myself in it. I would like my discharge to be up graded to honorable and the code also changed. I don't need any other DOD beifits but medical. I have learned that the code plays a big part in things. Such as unemployment, job prospects, etc. I would like a 1-A code. I would like a sincere look over my records for my whole career. This will in itself justify my request for the change. Thank you for your time.



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 437TH AIRLIFT WING (AMC)

FD 2005-00321

AUG 13 2004

MEMORANDUM FOR SSGT

, 437 LRS

FROM: 437 LRS/CC

SUBJECT: Notification Memorandum --Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct: Minor Disciplinary Infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.49. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. On or about 16 Feb 04, you gave false testimony in a civilian court proceeding. For this misconduct, you were convicted by the District Court of Sarpy County, Nebraska of False Reporting, dated 9 Jul 04 (Attachment 1);

b. On or about 7 Mar 04, you failed to obey a direct order from your First Sergeant, MSgt _____, by wrongfully having contact with Ms. _____ when you drove onto Charleston Air Force Base, SC with Ms. _____ as your passenger. For this misconduct, you received an Article 15, dated 8 Apr 04 (Attachment 2);

c. On or about 1 Nov 03 to about 14 Nov 03, you failed to provide adequate financial support to your wife and children. For this misconduct, you received a Letter of Reprimand, dated 18 Nov 03. In addition, this was placed in your existing Unfavorable Information File, dated 21 Nov 03 (Attachment 3); and

d. Prior to 30 Dec 02, you were involved in inappropriate relationships with female spouses of others in your squadron, that were not your wife. For this misconduct, you received a Letter of Reprimand, dated 30 Dec 02. In addition, an Unfavorable Information File was created and this Letter of Reprimand was placed in it (Attachment 4).

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) Discharge. I am recommending that you receive an Under Honorable Conditions (General) Discharge. The commander exercising special court-martial jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the United States Air Force and will probably be denied enlistment in any component of the armed forces and any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to:
 - a. Consult legal counsel.
 - b. Present your case to an administrative discharge board.
 - c. Be represented by legal counsel at a board hearing.
 - d. Submit statements in your behalf in addition to, or in lieu of, the board hearing.
 - e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for a medical examination. You must report to 437th Medical Group, Hill Blvd, on 12 Aug 04, at 1300 hours.

6. You have been scheduled for a Transition Assistance Briefing at the Family Support Center, Bldg 255, on 17 Aug 04, at 1000 hours.

7. You have been scheduled for a separation briefing at Personnel Relocations, Bldg 503, on 16 Aug 04, at 0900 hours.

8. 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 Captain at Bldg 503, on 16 Aug 04, at 0800 hours. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201, *Administration of Military Justice*. In addition to military counsel, you have the right to employ civilian counsel. The Military Component does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

9. Confer with your counsel and reply, in writing, within 7 workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

10. 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 unit orderly room.

11. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

12. If you received advanced educational assistance, special pay, or bonuses, and have not completed the period of active duty you agreed to serve, you may be subject to recoupment.

FD 2005-00321

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

Commander

Maj, USAF

Attachments:

1. Civilian Court Conviction, dated 9 Jul 04
2. Article 15, dated 8 Apr 04
3. LOR, dated 18 Nov 03 w/atch
4. LOR, dated 21 Nov 03 w/atch
5. Receipt of Notification Memorandum