

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE SRA	AFSN/SSAN [REDACTED]
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TYPE UOTH	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
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A01.00 A95.00	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

HEARING DATE 07 Jul 2006	CASE NUMBER FD-2005-00367
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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.

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]	SIGNATURE OF BOARD PRESIDENT [Signature]
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INDORSEMENT **DATE: 7/11/2006**

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-2005-00367

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:

Issue 1. Applicant contends discharge was for one isolated incident. The records indicated the applicant received an Article 15, a civilian conviction and three Letters of Counseling for misconduct. The Article 15 stated the applicant was disorderly which conduct was prejudice to good order and discipline in the armed forces. She was convicted of theft in the second degree by civilian authorities resulting in a court suspended imposition of sentence pursuant to a plea agreement. The plea agreement resulted in applicant being placed on probation for 24 months. The applicant was also cited on three separate occasions for traffic violations resulting in the receipt of Letters of Counseling. The DRB opined that through these administrative actions, the applicant had ample opportunities to change her 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.

Issue 2. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in her discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant appropriately characterized her term of service.

Issue 3. The applicant stated she was told her discharge would automatically be upgraded after 5 years of discharge. While a discharge may be upgraded, the upgrade is by no means automatic. A discharge is upgraded only if the applicant and the DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr Elmendorf AFB, AK on 11 Mar 97 UP AFI 36-3208, para 5.51 (Misconduct - Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 Apr 72. Enlmt Age: 19 7/12. Disch Age: 24 10/12. Educ: HS DIPL. AFQT: N/A. A-92, E-74, G-78, M-54. PAFSC: 4T052 - Histopathology Journeyman. DAS: 10 Jun 94.

b. Prior Sv: (1) AFRes 5 Dec 91 - 11 Dec 91 (7 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Dec 91 for 6 yrs. Svd: 05 Yrs 02 Mo 28 Das, all AMS.

b. Grade Status: SrA - 29 Aug 94
A1C - 29 Jan 92

c. Time Lost: None.

d. Art 15's: (1) 30 Nov 93, Keesler AFB, MS - Article 134. You, were, on or about 28 Sep 93, disorderly, which conduct was to the prejudice of good order and discipline in the armed forces. Suspended reduction to Airman. Twenty one days extra duty. (No appeal) (No mitigation)

e. Additional: Civilian Conviction, 18 DEC 96 - Convicted of theft in the second degree in District Court for the State of Alaska at Anchorage.

LOC, UNDATED - Traffic ticket for speeding.

LOC, 19 APR 95 - Traffic ticket for speeding.

LOC, 10 MAR 95 - Traffic ticket for failing to report an accident within 48 hours.

f. CM: None.

g. Record of SV: 12 Dec 91 - 11 Aug 93 Keesler AFB 3 (Initial)
12 Aug 93 - 12 Apr 94 Keesler AFB 4 (CRO)
13 Apr 94 - 12 Apr 95 Elmendorf AFB 4 (Annual)
13 Apr 95 - 12 Apr 95 Elmendorf AFB 4 (Annual)

h. Awards & Decs: AFTR, AFOUA W/2 OLCS, AFGCM, AFLSAR.

i. Stmt of Sv: TMS: (05) Yrs (03) Mos (06) Das
TAMS: (05) Yrs (02) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 13 Sep 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

27OCT05/ia

14. CONTINUATION OF ITEM 8, ISSUES (If applicable)

I have been discharged for ten years serving in the Air Force for 52 months. There was one isolated incident which at that time resulted in an equitable discharge. At this time I am asking for your consideration in an upgrade which the local VA has expressed that it is (a one time upgrade) automatic after 5 years of being discharged. If indeed it is automatic, please advise on procedures of obtaining an ~~amended~~ amended DD214.

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

In the event it is not automatic your review is appreciated.

16. REMARKS (If applicable)

Although the discharge has not hindered my advancing in the civilian sector, an upgrade would be beneficial in securing ~~any~~ possible employment with the San Diego Veterans Hospital. I would also like to mention, since my discharge I have successfully obtained and maintained employment with a pharmaceutical research facility utilizing the skills learned in the AIR FORCE as a Histologist.

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

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCESMEMORANDUM FOR 3 MDSS/SGSAH (SRA:)

31 JAN 1997

FROM: 3 MDSS/CC

SUBJECT: Notification Memorandum--Board Hearing

1. I am recommending your discharge from the United States Air Force for misconduct, and specifically for civilian conviction. The authority for this action is AFPD 36-32 and AFI 36-3208, under the provisions of paragraph 5.51. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

On or about 18 Dec 96, you were adjudged guilty of theft in the second degree for stealing approximately \$8,832.43 in cash, while employed at J.C Penney, as evidenced by a judgment, from the District Court for the State of Alaska at Anchorage, case # 3AN-S96-6806CR, dated 18 Dec 96.

3. This action could result in your separation with an Under Other Than Honorable Conditions Discharge. I am recommending you receive an Under Other Than Honorable Conditions Discharge. The commander exercising SPCM 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 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 subject 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 own 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 the 3rd Aerospace Medicine Squadron, Building 24-850 at 0715 on 6 Feb 97 with your medical records. You are to fast (drink water only) for 14 hours, refrain from alcohol 72 hours, and refrain from the use of tobacco products 6 hours prior to examination, bring eyeglasses (and contact solution if using contacts) if applicable. You must be in uniform for the examination.

6. Military legal counsel has been obtained to assist you. An appointment has been scheduled for you to consult Capt _____, 552-3887, at Bldg 6-920, rm 330 on 4 Feb 97 at 0830. 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. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.
7. Confer with your counsel and reply, in writing, within seven 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 own 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.
8. You have been scheduled for a Transition Assistance Program briefing. You must report to the Family Support Center at 1445 hrs. on 4 Feb 97. You have also been scheduled for a TMO Household Goods Shipment preprocessing briefing. You must report to bldg 2-900 (People Center), rm 247 at 1400 hrs. on 5 Feb 97.
9. 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 your Squadron Orderly Room.
10. 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.
11. The discharge board or the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).
12. Execute the attached acknowledgment and return it to me immediately.

Commander

Attachments:

1. Article 15, 3 Dec 93
2. LOC, undated
3. LOC, 10 Mar 95
4. LOC, 19 Apr 95
5. IMWRF Ltr, 28 Nov 95
6. Judgment Case # 3AN-S96-6806CR, 18 Dec 96