

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE SRA	AFSN/SSAN _____
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION YES No _____ X		ADDRESS AND OR ORGANIZATION OF COUNSEL _____	

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

ISSUES A92.35 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 3 May 2006	CASE NUMBER FD-2005-00378	
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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 OF BOARD PRESIDENT
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INDORSEMENT	DATE: 5/8/2006
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-2005-00378

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 inequitable because it was too harsh and that the minor mishaps that took place were after his scheduled separation date of November 27, 2001. However, due to the implementation of the Stop Loss Program, his separation date was extended indefinitely. The records indicated the applicant received an Article 15 for failures to go on November 6, 20, and 29-30, 2001, resulting in forty-five days extra duty. Applicant had four Letters of Reprimand for failure to go, caused self-injury, disrespect to a superior commissioned officer, sleeping on duty, failure to maintain standards of discipline and misuse of a government computer. Applicant had one Letter of Counseling for failure to go while he was working on his car stereo during the duty day, despite previous warnings and during feedback sessions. Applicant notes the minor mishaps happened after his scheduled Date of Separation (DOS). The DRB made note of this and also considered that applicant had seven disciplinary infractions prior to his scheduled DOS. 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.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on December 8, 1997) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 GEN Disch fr MacDill AFB, FL on 1 Feb 02 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: 6 Oct 78. Enlmt Age: 18 7/12. Disch Age: 23 3/12. Educ: HS DIPL. AFQT: N/A. A-69, E-85, G-72, M-52. PAFSC: 2E151 - Satellite & Wideband Communications Equipment Journeyman. DAS: 12 Jan 00.

b. Prior Sv: (1) AFRes 30 May 97 - 25 Nov 97 (5 months 27 days) (Inactive).

3. **SERVICE UNDER REVIEW:** (Examiner's Note: There appears to be an extension to enlistment, however, it is missing from the file. Appears extended by STOP LOSS).

a. Enlisted as AB 26 Nov 97 for 4 yrs. Svd: 04 Yrs 02 Mo 07 Das, all AMS.

b. Grade Status: SrA - 26 Nov 00
A1C - 26 Mar 99
Amn - 26 May 98

c. Time Lost: None.

d. Art 15's: (1) 18 Dec 01, MacDill AFB, FL - Article 86. You, did, on or about 6 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 20 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 29 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 30 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty. Forty five days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 13 JAN 02 - Failure to go, caused self-injury, and disrespect to a superior commissioned officer.

LOR, 22 OCT 01 - Sleeping on duty.

LOR, 18 JUN 01 - Failure to maintain standards of discipline.

LOC/UIF, 30 MAY 01 - Failure to go.

MFR, 13 MAY 01 - Failure to go, on three different days.

MFR, 13 MAY 01 - Dereliction of duty.
 LOR/UIF, 24 JUL 00 - Failure to obey a lawful order, and
 misuse of a government computer.
 RIC, 27 MAY 00 - Misuse of a government computer.

f. CM: None.

g. Record of SV: 26 Nov 97 - 25 Jul 99 Andersen AFB 4 (Initial)
 26 Jul 99 - 25 Jul 00 MacDill AFB 3 (Annual)REF
 26 Jul 00 - 25 Jul 01 MacDill AFB 2 (Annual)REF

h. Awards & Decs: AFTR, AFOSSTR, AFLSAR, AFOUA.

i. Stmt of Sv: TMS: (04) Yrs (08) Mos (03) Das
 TAMS: (04) Yrs (02) Mos (07) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Sep 05.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Stop Loss Programs.
3. DD Form 214.

31OCT05/ia

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FD 2005-00378

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES
(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

*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 Department of Defense, Washington Headquarters Service, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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 ADDRESS. 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 (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE d. SOCIAL SECURITY NUMBER
 Senior Airmen/E-4

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)
 2002 FEB 02

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)
 HONORABLE
 GENERAL/UNDER HONORABLE CONDITIONS
 UNDER OTHER THAN HONORABLE CONDITIONS

5. BOARD ACTION REQUESTED (X one)
 CHANGE TO HONORABLE
 CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
 CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
 CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION
 6TH COMM SQ, MACDILL AFB

BAD CONDUCT (Special court-martial only)
 UNCHARACTERIZED
 OTHER (Explain)

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)
 I'm writing to request an upgrade to my discharge and to receive documents stating I served my first term honorably. See attachment 1.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) _____ 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: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)
 Attachment 2 Stop Loss Program Page 2 of 2 (main issues are highlighted)
 Attachment 3 DD Form 214 (main issues are highlighted)

9. TYPE OF REVIEW REQUESTED (X one)

CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
 I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
 I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See item 10 of the instructions about counsel/representative.)
 b. TELEPHONE NUMBER (Include Area Code)
 c. E-MAIL
 d. FAX NUMBER (Include Area Code)

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 and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.)
 b. TELEPHONE NUMBER (Include Area Code)
 c. E-MAIL
 d. FAX NUMBER (Include Area Code)

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. (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.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)
 b. DATE SIGNED - REQUIRED (YYYYMMDD)
 2005/09/14

CASE NUMBER
 (Do not write in this space.)
 FD 2005-00378

To Whom It May Concern:

I'm writing to request an upgrade to my discharge and to receive documents stating I served my first term honorably.

My date of separation from the USAF was supposed to be November 27, 2001. Because of the tragic event that occurred on September 11, 2001, I was prohibited by the Stop Loss Program to separate on my date of separation. This prevented me from accepting career job opportunities available to me around my Separation Date and also prevented me from furthering my education. On February 2nd, 2002 I was given a General Discharge (Under Honorable Conditions) because of minor mishaps that took place after my original separation date. I firmly believe that my discharge should be updated to an honorable discharge due to these circumstances.

I was informed by the VA that I needed to have my certification stating that I served my 4 years honorably. Because of the September 11 event that occurred I was unable to receive my certification. My DD-214 states that I received the Longevity Award which clearly states that I served my 4 years honorably.

I firmly believe that my discharge should be upgraded and I should receive my certification

Sincerely,

[Redacted signature box]



**DEPARTMENT OF THE AIR FORCE
6TH AIR MOBILITY WING (AMC)
MACDILL AIR FORCE BASE, FLORIDA**

18 JAN 2002

MEMORANDUM FOR SENIOR AIRMAN:

FROM: 6 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct Consisting of Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as an under honorable conditions (general).

2. My reasons for this action are as follows:

a. Between on or about 6 Jan 02 and between on or about 11 Jan 02, you failed to report at the time prescribed to your appointed place of duty, caused self-injury without intent to avoid service, and displayed disrespect toward a superior commissioned officer. This incident resulted in a Letter of Reprimand, dated 13 Jan 02 (Tab B).

b. Between on or about 6 Nov 01 and between on or about 30 Nov 01, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in Nonjudicial Punishment under Article 15, Uniform Code of Military Justice, dated 18 Dec 01 (Tab C).

c. On 13 Oct 01, you were derelict in the performance of your duties. More specifically, you wrapped up in a sleeping bag and slept in your work place. This incident resulted in a Letter of Reprimand, dated 22 Oct 01 (Tab D).

d. On 18 Jun 01, you failed to maintain standards of discipline in regards to maintenance of government quarters and facilities. This incident resulted in a Letter of Reprimand, dated 18 Jun 01 (Tab E).

e. On 8 May 01, you failed to report at the time prescribed to your appointed place of duty. More specifically, you were in the parking lot working on your vehicle during your prescribed duty time. This incident resulted in a Letter of Counseling, dated 13 May 01. This document was placed in your Unfavorable Information File, dated 30 May 01 (Tabs F & G).

f. Between on or about 11 May 01 and between on or about 13 May 01, you failed to report at the time prescribed to your appointed place of duty. This incident resulted in a Memorandum for Record, dated 13 May 01 (Tab H).

g. On 13 May 01, you were derelict in the performance of your duties. More specifically, failed to run at the squadron fitness run, after being briefed on 26 Apr 01 and again on 12 May 01 that you are required to do so unless you have a valid waiver from the base hospital. This incident resulted in a Memorandum for Record, dated 13 May 01 (Tab I).

h. Between on or about 9 Jun 00 and between on or about 1 Jul 00, you failed to obey a lawful order given to you by your supervisor, SSgt _____; not to visit computer chat rooms using government computers. This incident resulted in a Letter of Reprimand, dated 24 Jul 00 and an Unfavorable Information file, dated 4 Oct 00, was established (Tabs J & K).

i. On 14 May 00, you misused government property by accessing chat rooms on a government computer. This incident resulted in an AF Form 174, Record of Individual Counseling, dated 27 May 00 (Tab L).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special-Court Martial (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, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult counsel. Military counsel has been obtained to assist you. I have made an appointment for you to consult Capt: _____ on 18 Jan 02 at 1500 hrs. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 24 Jan 02 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 on your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 6th Medical Group Hospital - Physical Exams, at 1400 hours on 24 Jan 02 for the examination. **You must report to the Physical Exams Section 30 minutes prior to pick up your DD Form 2697.**

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 in the Orderly Room.

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



Commander, 6th Communications Squadron

Attachments:

- a. Respondent's Acknowledgment
- b. Letter of Reprimand, 13 Jan 02
- c. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 18 Dec 01
- d. Letter of Reprimand, dated 22 Oct 01
- e. Letter of Reprimand, dated 18 Jun 01
- f. AF Form 1058, Unfavorable Information File Action dated 30 May 01
- g. Letter of Counseling, dated 13 May 01
- h. Memorandum for Record, dated 13 May 01
- i. Memorandum for Record, dated 13 May 01
- j. AF Form 1058, Unfavorable Information File Action dated 4 Oct 00
- k. Letter of Reprimand, dated 24 Jul 00
- l. AF Form 174, Record of Individual Counseling, dated 27 May 00