

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []	GRADE AMN	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	A93.01 A94.05	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	CASE NUMBER	
28 Jul 2006	FD-2005-00383	

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.

SIGNATURE OF RECORDER []	SIGNATURE OF BOARD PRESIDENT []
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INDORSEMENT	DATE: 7/31/2006
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-2005-00383

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. The records indicated the applicant received an Article 15, a vacation, two Letters of Reprimand (LOR's), Unfavorable Information File, two Records of Individual Counseling (RIC's), dishonored check notification and an arrest for misconduct. The records indicated the Article 15 was issued because the applicant had a lawful order issued to not have his dependent daughter in his dormitory room in which he failed to obey. The Vacation action was as a result of a lawful order to wear his uniform at all times when on duty no matter where he was working in which he failed to obey. The applicant had further disciplinary actions to include LOR's and RIC's for failure to go, an arrest for violation of a restraining order, and dishonored check notification. 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. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 26 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Holloman AFB, NM on 11 Aug 94 UP AFR 39-10, para 5-46 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Apr 69. Enlmt Age: 22 11/12. Disch Age: 26 4/12. Educ: HS DIPL. AFQT: N/A. A-98, E-95, G-94, M-91. PAFSC: 2E431 - Space Systems Apprentice. DAS: 12 Jan 93.

b. Prior Sv: (1) AFRes 5 Mar 92 - 31 Mar 92 (27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 01 Apr 92 for 4 yrs. Svd: 02 Yrs 04 Mo 11 Das, all AMS.

b. Grade Status: Amn - 24 Jun 94 (Article 15, 24 Jun 94)
A1C - 01 Aug 93
Amn - 01 Oct 92

c. Time Lost: None.

d. Art 15's: (1) 29 Jul 94, Vacation, Holloman AFB, NM - Article 92. You, having knowledge of a lawful order issued by MSgt [redacted] to wear your uniform at all times when on duty no matter where you were working, an order which it was your duty to obey, did, on or about 20 Jul 94, fail to obey the same by wrongfully not wearing your uniform on duty when you transported a summer youth worker to work in a government owned vehicle. Forfeiture of \$300.00 pay. (No appeal) (No mitigation)

(2) 24 Jun 94, Holloman AFB, NM - Article 92. Preliminary investigation has disclosed that you, having knowledge of a lawful order issued by SMSgt [redacted], not to have your dependant daughter in your dormitory room, an order which it was your duty to obey, did, on or about 9 Jun 94, fail to obey the same by wrongfully having your dependent daughter in your dormitory room at building 340. Reduction to Airman. Suspended forfeiture of \$300.00 pay. (No appeal) (No mitigation)

e. Additional: Arrest, 13 JUN 94 - Violation of restraining Order.
LOR/UIF/CR, 02 FEB 94 - Failure to go.

RIC, 25 AUG 93 - Failure to go.
LOR, 23 AUG 93 - Failure to go.
RIC, 07 JUL 93 - Failure to go.
Court Order, 6 JUL 93 - Non contact/Restraining Order.
Dishonored Check Notification, 8 Feb 93 - Check#215 for
\$450.00.
Traffic Ticket, 16 Oct 93 - Defective vehicle (Headlight
out).

f. CM: None.

g. Record of SV: 01 Apr 92 - 30 Nov 93 Holloman AFB 2 (Initial)REF

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (05) Mos (07) Das
TAMS: (02) Yrs (04) Mos (11) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 23 Sep 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Four Letters of Support.

31OCT05/ia

September 23, 2005

Members of Review Board:

My General (Under Honorable Conditions) discharge was inequitable because it was based on circumstances that took place while I was very young under extreme duress involving the loss of my child. My ex-wife would not allow me visitation with my daughter (2 YO) during our separation. She was having an affair with my Air Force sponsor who was also married. I wasn't abusive.

I fully understand the significance of our social standards. I have matured and learned as a result of my inappropriate behavior. I have become a better father, member of society and someone my daughter will be able to look up to.

I have established myself in society as a result of maturing. I look back on the sound family standards I was raised to practice and believe in coming from a good solid Christian family background.

I now have my daughter two months out of the year. I provide support for her. I allow her to visit her grandparents part of my allotted time so she can also bond with them and learn of her heritage (Alaskan Native).

I would appreciate your utmost consideration regarding the upgrading of my discharge. I provide character references statements that support my posture towards being a solid citizen.

Respectfully:

[Redacted signature area]

ISSUE



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 49TH FIGHTER WING (ACC)
HOLLOMAN AIR FORCE BASE, NEW MEXICO

FD2005-00383

30 June 1994

MEMORANDUM FOR AMN [REDACTED] FR [REDACTED]

FROM: 4 SWS/CCQ

SUBJ: Letter of Notification

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFR 39-10, Section H, paragraph 5-46. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. You, having knowledge of a lawful order issued by Senior Master Sergeant [REDACTED], not to have your dependent daughter in your dormitory room, an order which it was your duty to obey, did at Holloman Air Force Base, New Mexico, on or about 9 June 1994, fail to obey the same by wrongfully having your dependent daughter in your dormitory room, to wit: Bldg 340. Your actions are a violation of Article 92, UCMJ, for which you received nonjudicial punishment, under Article 15, UCMJ, on 24 June 1994.

b. You did, at Holloman Air Force Base, New Mexico, on or about 2 February 1994, without authority, fail to go to your appointed place of duty, to wit: your parenting class that you were ordered to attend. Your actions are a violation of Article 92, for which you received a Letter of Reprimand with corresponding UIF action on 2 February 1994.

c. You did, at Holloman Air Force Base, New Mexico, on or about 23 August 1993, without authority, fail to go to your appointed place of duty, to wit: Family Support, Bldg 40. Your actions are a violation of Article 86, UCMJ, for which you received a Record of Counseling on 25 August 1993.

d. You did, at Holloman Air Force Base, New Mexico, on or about 17 August 1993, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Bldg 1063. Your actions are a violation of Article 86, UCMJ, for which you received a Letter of Reprimand on 23 August 1993.

Global Power for America

e. You did, at Holloman Air Force Base, New Mexico, on or about 7 July 1993, without authority, fail to go at the time prescribed to your appointed place of duty. Your actions are a violation of Article 86, UCMJ, for which you received a Record of Counseling on 7 July 1993.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

3. 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 [redacted], Area Defense Counsel, Building 302, Holloman AFB, phone 3474, at 0900 on 1 August 1994. You may request that a different military defense counsel represent you, if that counsel is reasonably available as defined by AFR 111-1. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. I will forward your statements to the separation authority. Any statements you want me to forward must reach the Separations Processing Center, Room 1940, Building 29, Holloman AFB, by 7 July 1994 unless you request and receive an extension for good cause shown. You must submit your request for extension to the Separation Processing Center in a timely manner.

5. 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.

6. You were previously scheduled for a medical examination on 30 June 1994.

7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 2. A copy of AFR 39-10 is available for your use in the office of the Area Defense Counsel.

8. You must execute the attached acknowledgment and return to me immediately. The acknowledgment does not admit or deny any of the allegations against you, nor does it mean that you agree with the discharge action. It is simply an acknowledgment that you have received this Letter of Notification.



Squadron Section Commander

Attachments:

1. Article 15
2. LOR
3. (2) ROCs
4. LOR w/UIF
5. Armed Forces Traffic Ticket
6. Dishonored Check Notification
7. Letter of Arrangement