

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

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

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
-----					X
-----					X
-----					X
-----					X
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ISSUES	A94.05	INDEX NUMBER	A67.90	<b>EXHIBITS SUBMITTED TO THE BOARD</b>	
				<b>1</b>	ORDER APPOINTING THE BOARD
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE
				<b>3</b>	LETTER OF NOTIFICATION
				<b>4</b>	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
<b>07 Mar 2006</b>	<b>FD-2005-00425</b>

**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 <i>[Signature]</i>	SIGNATURE OF BOARD PRESIDENT <i>[Signature]</i>
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<b>ENDORSEMENT</b>		<b>DATE: 3/8/2006</b>
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-2005-00425**

**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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

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. The applicant was discharged with a general discharge for pattern of misconduct – conduct prejudicial to good order and discipline. The applicant received one Letter of Reprimand for being derelict in his duties for failure to follow procedures, which resulted in a traffic accident with a POV and failure to report. Applicant received two Article 15's for disobeying a lawful order on two separate occasions refusing to take the Anthrax vaccination. The applicant contends discharge was inequitable because "now...the shot is optional...If it were the same then I would have had a different career in the Air Force." At the time applicant served in the Air Force, the Anthrax vaccination was mandatory, and thus the applicant was required to comply with the lawful order directed by his superior commissioned officer. The DRB opined that through the 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.

**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 USAF Los Angeles AFB, CA on 6 Sep 00 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: 22 Apr 80. Enlmt Age: 18 4/12. Disch Age: 20 4/12. Educ: HS DIPL. AFQT: N/A. A-61, E-70, G-48, M-70. PAFSC: 2T131 - Vehicle Operations Apprentice. DAS: 9 Mar 99.

b. Prior Sv: (1) AFRes 9 Sep 98 - 20 Oct 98 (1 month 12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 21 Oct 98 for 4 yrs. Svd: 01 Yrs 10 Mo 17 Das, all AMS.

b. Grade Status: Amn - 20 Jul 00 (Article 15, 20 Jul 00)  
A1C - 22 Feb 00  
Amn - 22 Apr 99

c. Time Lost: None.

d. Art 15's: (1) 20 Jun 00, Kadena AB, Japan - Article 90. You, having received a lawful command from Col [REDACTED], your superior commissioned officer, then known by you to be your superior commissioned officer, to immediately report to 18<sup>th</sup> Medical Group, Kadena AB, Okinawa, Japan, to receive an anthrax vaccination, or words to that effect, did, on or about 6 Jul 00, willfully disobey the same. Reduction to Airman. (No appeal) (No mitigation)

(2) 31 May 00, Kadena AB, Japan - Article 90. You, having received a lawful command from Maj [REDACTED], your superior commissioned officer, then known by you to be your superior commissioned officer, to immediately report to 18th Medical Group, Kadena AB, Okinawa, Japan, to receive an anthrax vaccination, or words to that effect, did, on or about 2 May 00, willfully disobey the same. Suspended reduction to Airman. Forfeiture of \$563.00 pay, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 19 OCT 99 - Dereliction of duty, failure to report at the prescribed time to appointed place of duty, and unprofessional personal

appearance and attitude.

f. CM: None.

g. Record of SV: 21 Oct 99 - 20 Jun 00 Kadena AB 2 (Initial)REF

h. Awards & Decs: AFOSLTR, AFTR.

i. Stmt of Sv: TMS: (01) Yrs (11) Mos (28) Das  
TAMS: (01) Yrs (10) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02 Nov 05.  
(Change Discharge to Honorable)

Issue 1: As you probably know that I was discharged from Active Duty for refusing to take that anthrax shot(s). My appeal is pretty simple. Now that the shot is optional. I wish to be given that same choice. If it were the same then I would have had a different career in the Air Force. If you could, please upgrade my discharge and I will continue to live happy. That's it. Very simple. I don't want anything else but that. Actually, if I could still get my GI Bill that would be great!

ATCH  
None.

8DEC05/ia



DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES

FD2005-00425

15 AUG 2000

MEMORANDUM FOR AMN: [REDACTED]

FROM: 18 TRANS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, then your service may be characterized as either honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general). If your discharge is approved, then I am further recommending that you not receive probation and rehabilitation.

2. My specific reasons for this action are:

a. On or about 14 Oct 99, you were derelict in your duties when you failed to travel with your radio during an exercise and by not following proper backing procedures which resulted in a traffic accident with a POV. On or about 15 Oct 99, you failed to report at the prescribed time to your appointed place of duty. In addition, your attitude and personal appearance were completely unprofessional. As a result of these actions, you received a Letter of Reprimand on 19 Oct 99 (Tab 1-1).

b. On or about 2 May 00, you willfully disobeyed an order from me, your superior commissioned officer, to receive an anthrax vaccination. You consequently received nonjudicial punishment pursuant to Article 15, UCMJ. Punishment consisted of a six-month suspended reduction to the grade of airman, forfeiture of \$563.00 pay per month for one month, 14 days extra duty, and an Unfavorable Information File (UIF) was established on 5 Jun 00 (Tab 1-2).

c. On or about 6 Jul 00, you willfully disobeyed an order from Colonel [REDACTED], your superior commissioned officer, to receive an anthrax vaccination (2nd order). You consequently received nonjudicial punishment pursuant to Article 15, UCMJ. Punishment consisted of a reduction to the grade of airman, with a new date of rank of 20 Jul 00, and a copy of the Article 15 was placed in your existing UIF on 25 Jul 00 (Tab 1-3).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the United States Air Force and, if you are discharged, how your service will be characterized. If you are discharged, then you will be ineligible for reenlistment in the Air Force.

4. 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 Capt [REDACTED] at the Area Defense Counsel at Building 1460 on 16 Aug 00 at 1400 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in response to this action. Any statements that you want the separation authority to consider must reach me by 18 Aug 00 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 in your own behalf, then 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 Physical Examination Section, 18th Medical Group, Kadena AB, Japan at 0815 on 22 Aug 00 for the examination.
8. The Privacy Act Statement of 1974 covers any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use at the Area Defense Counsel's office.
9. Execute the attached acknowledgment and return it to me immediately.



Commander, 18th Transportation Squadron

**Attachments:**

1. LOR, dated 19 Oct 99
2. AF Form 3070; supporting documents; AF Form 1137
3. AF Form 3070; supporting documents; AF Form 1137
4. Statement of Understanding Regarding Recoupment of Education Assistance, Special Pay, or Bonuses
5. Airman's Receipt of Notification Memorandum