

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>		<b>GRADE</b> <b>AB</b>	<b>AFSN/SSAN</b> <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>			
<b>TYPE UOTH</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<b>YES</b>	<b>No</b>					
	<b>X</b>					
<b>MEMBER SITTING</b> <div style="border: 1px dashed black; height: 100px; width: 100%;"></div>		<b>VOTE OF THE BOARD</b>				
		<b>HON</b>	<b>GEN</b>	<b>UOTHC</b>	<b>OTHER</b>	<b>DENY</b>
						<b>X</b>
						<b>X</b>
						<b>X</b>
						<b>X</b>
<b>ISSUES</b>	<b>A92.01</b> <b>A94.05</b>	<b>INDEX NUMBER</b>	<b>A67.90</b>			
		<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				
<b>HEARING DATE</b>	<b>10 Aug 2006</b>	<b>CASE NUMBER</b>	<b>FD-2005-00477</b>			
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE						
Case heard in 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.						
<b>SIGNATURE OF RECORDER</b>			<b>SIGNATURE OF BOARD PRESIDENT</b>			
<div style="border: 1px dashed black; height: 20px; width: 100%;"></div>			<div style="border: 1px dashed black; height: 20px; width: 100%;"></div>			
<b>INDORSEMENT</b>				<b>DATE: 8/11/2006</b>		
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> 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-2005-00477**

**GENERAL:** The applicant appeals for upgrade of discharge to general.

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 and a Letter of Reprimand for misconduct. The Article 15 was for disobeying a lawful "no contact" order and for failing to maintain his base housing unit in a habitable condition. He was reduced in grade to airman basic and restricted to the limits of Edwards AFB for a period of 45 days. He also received a Letter of Reprimand for dereliction of duty, larceny, and assaulting his wife. 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 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, letters of recommendation and other accomplishments. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

**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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTHC Disch fr USAF Edwards AFB, CA on 8 Nov 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for General (Under Honorable Conditions) Discharge.

2. **BACKGROUND:**

a. DOB: 22 Aug 75. Enlmt Age: 21 0/12. Disch Age: 27 2/12. Educ: HS DIPL. AFQT: N/A. A-99, E-98, G-99, M-83. PAFSC: 2R031 - Maintenance Data Systems Analysis Apprentice. DAS: 01 Jun 01.

b. Prior Sv: (1) AFRes 12 Sep 96 - 07 Jan 97 (3 months 26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 8 Jan 97 for 6 yrs. Svd: 05 Yrs 10 Mo 01 Das, all AMS.

b. Grade Status: AB - 11 Oct 02 (Article 15, 11 Oct 02)  
SRA - 03 Sep 99

c. Time Lost: None.

d. Art 15's: (1) 11 Oct 02, Edwards AFB, CA - Article 92. You did, having knowledge of a lawful order issued by your commander, LtCol [REDACTED], to refrain from any contact with Mrs. [REDACTED] (to include phone, fax, mail, e-mail or to come within a distance of 100 yards of Mrs. [REDACTED]), dated 29 Jul 02 and reissued 27 Sep 02 with language to the same effect, an order which it was your duty to obey, did, in the State of California, on divers occasions, from on or about 21 Sep 02 through 3 Oct 02, fail to obey the same by making contact with Mrs. [REDACTED] and by coming within 100 yards of her person. You, who knew or should have known of your duties, from on or about 25 Sep 02 to on or about 30 Sep 02, were derelict in the performance of those duties in that you willfully failed to maintain your base housing unit in a habitable condition in accordance with base housing standards by repeatedly failing to remove debris and animal feces from in and around the house and yard, as it was your duty to do. Reduction to AB. Restriction to the limits of Edwards AFB, California, and in addition, further restricted to dorm buildings 2511, 2515 and the adjoining courtyard between the hours of 2000 and 0600 for 45 days. (No appeal) (No mitigation)

e. Additional: LOR, 16 OCT 02 - Dereliction to duty, larceny and assault.

f. CM: None.

g. Record of SV: 08 Jan 97 - 15 Jul 98 Goodfellow AFB 2 (HAF Dir)REF  
 16 Jul 98 - 15 Jul 99 Goodfellow AFB 3 (Annual)  
 16 Jul 99 - 15 Jul 00 Goodfellow AFB 3 (Annual)  
 16 Jul 00 - 29 Apr 01 Goodfellow AFB 3 (CRO)  
 30 Apr 01 - 29 Apr 02 Edwards AFB 5 (Annual)

h. Awards & Decs: AFGCM, AFLSAR, AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (06) Yrs (01) Mos (27) Das  
 TAMS: (05) Yrs (10) Mos (01) Das

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

Issue 1: I feel that the charges that were brought against me at that time were not correct. I was advised that this was the easy way out. I feel that I (sic) my good time in the service warrants an honorable discharged (sic).

**ATCH**

1. DD Form 214.

01FEB06/ia

FD 2005-00477



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 95<sup>TH</sup> AIR BASE WING (AFMC)  
EDWARDS AIR FORCE BASE, CALIFORNIA

OCT 23 2002

MEMORANDUM FOR AB: [REDACTED] 412 OSS

FROM: 412 OSS/CC

SUBJECT: Notification Letter – Board Hearing

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct (Conduct Prejudicial to Good Order and Discipline), according to AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, under the provisions of paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are as follows:

a. On 25 Sep 02, you were derelict in the performance of your duties, in that you committed the following offenses: Dereliction of Duty, UCMJ Article 92; Larceny, UCMJ Article 121; Assault, UCMJ Article 128; Conduct prejudicial to good order and discipline, UCMJ Article 134, as evidenced by a Letter of Reprimand dated 16 Oct 02. (Atch 1.1)

b. On 21 Sep 02 - 3 Oct 02, you were derelict in the performance of your duties, in that you failed to obey a stay away order by making contact with Mrs. [REDACTED] and by coming within 100 yards of her person. You were also derelict in the performance of your duties, in that you willfully failed to maintain your base housing unit in a habitable condition in accordance with base housing standards by repeatedly failing to remove debris and animal feces from in and around the house and yard, as evidenced by an Article 15 dated 9 Oct 02. (Atch 1.2)

3. This action could result in your separation with either an Under Other Than Honorable Conditions, Under Honorable Conditions (General) or Honorable discharge. I am recommending that you receive an Under Other Than Honorable Conditions discharge. The commander exercising special court-martial convening authority (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 probably be denied enlistment in any component of the armed forces.

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 Flight Surgeon at 0800 hours on 25 OCT, 2002.

6. Military legal counsel CAPT.  has been obtained to assist you. An appointment has been scheduled for you to consult him/her on Oct 23, 2002. 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 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 **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 own behalf. I will send these 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. 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 Unit Orderly room.

9. 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.

10. 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.

11. Execute the attached acknowledgement and return it to me immediately.

Commander

**Attachments:**

1. Supporting Documents
  - 1.1 LOR dated 16 Oct 02
  - 1.2 Art 15 dated 9 Oct 02
2. Airman's Receipt of Notification/Recoupment Memorandum
3. Airman's Statement
4. EPRs