

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	GRADE SRA	AFSN/SSAN <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
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TYPE HON	PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;">X</td> </tr> </table>	YES	No		X		
YES	No					
	X					

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<div style="border: 1px solid black; height: 100%; width: 100%;"></div>					X*
					X*
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ISSUES A95.00 A01.00 A94.05	INDEX NUMBER A13.00	EXHIBITS SUBMITTED TO THE BOARD														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td> </td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td> </td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td> </td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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 HE
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HEARING DATE 02 Nov 2006	CASE NUMBER FD-2006-00025	
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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 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.

* Reason and Authority

SIGNATURE OF RECORDER <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
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INDORSEMENT	DATE: 11/13/2006
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-2006-00025

GENERAL: The applicant appeals to change the reason and authority for his discharge.

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: Request for change of reason and authority for 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 requests that the reason (Weight and Body Fat Management Program Failure) for his discharge be changed to "For the Convenience of the Government." Applicant contends his discharge was unjust. He admits that he was slightly overweight; however, it did not affect his performance of duties. He further contends that the Air Force changed its policy after his discharge. The DRB took note of the applicant's contention and determined the new policy was not retroactive; therefore it was not a matter of inequity or impropriety which would warrant an upgrade. The DRB opined that the reason for discharge was Weight and Body Fat Management Program Failure which is in accordance with AFI 36-3208, paragraph 5.65, *Failure to Progress in the Weight and Body Fat Management Program*. An involuntary discharge for the Convenience of the Government would only be appropriate when discharge would serve the best interests of the Air Force and the discharge for cause is not warranted. The Board concluded the reason for 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 October 2, 2000) that he understood he must receive an Honorable discharge and complete 36 months of active duty 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 HON Disch fr USAF Hurlburt Field, FL on 23 Jul 03 UP AFI 36-3208, para 5.65 (Weight and Body Fat Management Program Failure). Appeals for a Change in Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 28 Apr 82. Enlmt Age: 17 11/12. Disch Age: 21 2/12. Educ: HS DIPL. AFQT: N/A. A-63, E-71, G-50, M-57. PAFSC: 2A532A - Helicopter Maintenance Apprentice. DAS: 12 Jul 01.

b. Prior Sv: (1) AFRes 20 Apr 00 - 18 Sep 00 (4 months 29 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Sep 00 for 6 yrs. Svd: 02 Yrs 10 Mo 05 Das, all AMS.

b. Grade Status: SrA - 10 mar 03
A1C - 30 Mar 01

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR/UIF, 26 AUG 02 - Failure to make satisfactory progress in the Weight and Body Fat Management Program.

LOR/UIF, 07 MAY 02 - Failure to make satisfactory progress in the Weight and Body Fat Management Program.

LOC, 16 APR 02 - Failure to make satisfactory progress in the Weight and Body Fat Management Program.

f. CM: None.

g. Record of SV: 10 Mar 02 - 09 Mar 03 Hurlburt Field 3 (Annual)REF

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (03) Yrs (03) Mos (04) Das
TAMS: (02) Yrs (10) Mos (05) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Jan 06.
(Change Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. AF Form 393.
4. AF Form 1768.
5. 16 HMXS/CC, Letter, 15 May 03.
6. DD Form 149 with Attachments.

1MAR06/ia

Attachment 1

To whom it may concern:

I am submitting this paperwork because I believe my type of discharge is unjust. I am requesting you to change my discharge reasoning from "Weight Control Failure" to "Convenience of the Government".

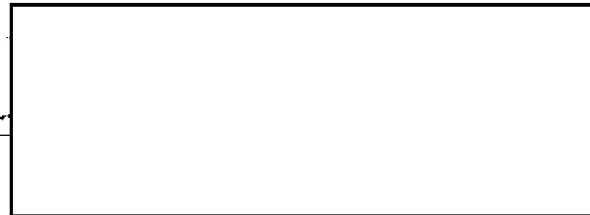
My first reason for this change is because me being slightly overweight (which you will see in the paperwork) did not affect my performance of my duties. The majority of my time served, I was overweight by no more than 6lbs and no more than 4% body fat over the requirements. There were many people in my squadron which exceeded their weight limits by far more than me, however because of their rank, they were not penalized.

I also am requesting you to change my reason for discharge to "Convenience of the Government", because I am unable to receive my G.I Bill benefits for college due to the fact that "Weight control failure" does not make me eligible for this due to the fact that I only served 2 years and 9 months, and the VA requires 3 years when weight control failure is the reason for discharge, however if I was discharged because of convenience of the government, I would be eligible for my G.I bill benefits.

Finally, after my discharge, the Air Force changed its regulations on fitness. Instead of weighing and taping, there is a yearly physical test. I never failed an ERGO when I was enlisted, and I feel I would of passed this new testing. I also believe that weighing and taping was not an accurate method of finding body fat.

Because of my slight overweight problem did not interfere with the performance of my duties, I feel that I was discharged for some other reason than my weight problem.

Thank you for addressing this issue.





DEPARTMENT OF THE AIR FORCE
16TH HELICOPTER MAINTENANCE SQUADRON (AFSOC)

FD 7006 - 00025

MEMORANDUM FOR SRA [REDACTED], 16 HMXS

23 JUN 03

FROM: 16 HMXS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for failure in the Weight and Body Fat Management Program, more specifically, for exceeding body fat standards, according to AFD 36-32 and AFI 36-3208, under the provisions of chapter 5, section K, paragraph 5.65. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are based on the following:

a. On 30 Apr 03, you failed to make satisfactory progress in the Weight and Body Fat Management Program (WBFMP) by gaining 7 percent body fat and gaining fourteen pounds, instead of losing the prescribed 1 percent body fat or 5 pounds required by AFI 40-502. This was your fifth unsatisfactory measurement documented on your AF Form 393. For this failure you are being recommended for discharge.

b. On 20 Aug 02, you failed to make satisfactory progress in the WBFMP by losing 0 percent body fat and gaining 1 pound, instead of losing the prescribed 1 percent body fat or losing 5 pounds required by AFI 40-503. This was your fourth unsatisfactory measurement documented on your AF Form 393. For this failure you received a Letter of Reprimand (LOR), dated 26 Aug 02, which established your Unfavorable Information File (UIF), and was filed in your UIF.

c. On 1 Jul 02, you failed to make satisfactory progress in the WBFMP by gaining 5 percent body fat and gaining 9 pounds, instead of losing the prescribed 1 percent body fat or 5 pounds required by AFI 40-502. This was your third unsatisfactory measurement documented on your AF Form 393. For this failure you received a LOR, dated 26 Aug 02, which established your UIF and was filed in your UIF.

d. On 16 Apr 02, you failed to make satisfactory progress in the WBFMP by losing 0 percent body fat and losing only 3 pounds, instead of losing the prescribed 1 percent body fat or 5 pounds required by AFI 40-502. This was your second unsatisfactory measurement documented on your AF Form 393. For this failure you received a LOR, dated 16 Apr 02, which was filed in your PIF.

e. On 30 Nov 01, you were entered in the Weight and Body Fat Management Program (WBFMP). On 5 Mar 02, you failed to make satisfactory progress in the WBFMP by losing 0 percent body fat and gaining 4.5 pounds, instead of losing the prescribed 1 percent body fat or 5 pounds required by AFI 40-502. This was your first unsatisfactory measurement documented on your AF Form 393, Individual Record for Weight Management and Fitness Improvement Training Program Form. For this failure you received a Letter of Counseling (LOC), dated 16 Apr 02, which was filed in your PIF.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Courts-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.

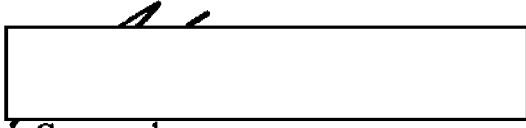
4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel at Hurlburt Field, FL, Bldg 90042, on 23 JUN 03 at 1000 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three workdays of your receipt of this memorandum, 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 are scheduled for a medical examination and you should report to the Hurlburt Clinic at 1345 hrs on 23 JUN 03 for the examination.

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 the unit orderly room.



Commander

Attachments:

Documents supporting basis for discharge

1. AF FM 393, undated, (1p)
2. AF FM 1137, dtd 16 Sep 02, (1p)
3. AF FM 1058, dtd 16 Sep 02 (1p)
4. LOR, dtd, 26 Aug 02, (3pgs)
5. LOR, dtd 7 May 02, (2pgs)

FD7006-00026

6. LOC, dtd, 16 Apr 02, (1p)
7. Airman's receipt of notification memorandum