

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div> | GRADE SRA | AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div> |
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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 | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">YES</td> <td style="width:50%; padding: 2px;">No</td> </tr> <tr> <td style="text-align: center; padding: 2px;">X</td> <td style="padding: 2px;"></td> </tr> </table> | YES | No | X | | | |
| YES | No | | | | | |
| X | | | | | | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
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| | HON | GEN | UOTIC | OTHER | DENY |
| <div style="border: 1px dashed black; height: 40px; width: 100%;"></div> | X | | | | +* |
| <div style="border: 1px dashed black; height: 40px; width: 100%;"></div> | X | | | | +* |
| <div style="border: 1px dashed black; height: 40px; width: 100%;"></div> | X | | | | +* |
| <div style="border: 1px dashed black; height: 40px; width: 100%;"></div> | X | | | | +* |
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| ISSUES | A93.02 | INDEX NUMBER | A00.58 A02.02 | EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; padding: 2px;">1</td><td style="padding: 2px;">ORDER APPOINTING THE BOARD</td></tr> <tr><td style="padding: 2px;">2</td><td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="padding: 2px;">3</td><td style="padding: 2px;">LETTER OF NOTIFICATION</td></tr> <tr><td style="padding: 2px;">4</td><td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td style="padding: 2px;"></td><td style="padding: 2px;">TAPE RECORDING OF PERSONAL APPEARANCE</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 |
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| HEARING DATE | 3 August 2006 | CASE NUMBER | FD-2006-00041 | |
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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 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 & Authority
* RE Code

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| SIGNATURE OF RECORDER | SIGNATURE OF BOARD PRESIDENT |
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| INDORSEMENT | DATE: 8/23/2006 |
| 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-2006-00041

GENERAL: The applicant appeals for an upgrade of discharge to Honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

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: The applicant's discharge is upgraded to Honorable. Change of reason and authority for discharge and change of reenlistment code are denied.

The applicant submitted no issues contesting the equity or propriety of his discharge. However, after a thorough review of the record, the Board identified an impropriety believed to have substantially affected the preparation of the applicant's defense and the ultimate outcome of his administrative action.

ISSUE: The applicant cited his desire for an upgrade of discharge so that he can receive the G.I. Bill benefits and pursue training in order to "earn higher wages to support [his] child and [himself]." The records indicated the applicant received an Article 15 in November 1999 and a suspended reduction in grade for sleeping while performing sentry duty and one Letter of Reprimand, dated 18 September 2000, pursuant to a civilian conviction, on or about 24 August 2000, for unlawfully carrying a concealed weapon in his automobile. Included in the civilian conviction the applicant was also found guilty of criminal trespassing by positioning himself and his vehicle upon a private business property after hours of operation. In a letter from the applicant, dated 18 January 2006, he apologized for his actions and admitted that he "acted very immature and made a number of mistakes," which he pledges would not be repeated "if [he] could do it over again." The Board noted that the applicant had performed admirably during two separate deployments to SW Asia. A performance reported, dated 11 May 2000, cited the applicant for his "superior job knowledge" and "superb performance" in resolving "dozens of incidents" that threatened the security of his deployed operating location. During a review of the applicant's record, the Board noted that the notification memorandum sent to him did not include additional derogatory information that was detailed in the legal review sent to his commander; rendering the applicant unaware of and, thus, deprived of the opportunity to fully respond to all factors considered in his discharge. In light of the failure of the notification memorandum to inform the applicant what evidence would be utilized in determining whether he should be separated and the characterization of his discharge, the Board concluded that a clear impropriety existed and that the failure to comply with the respondent's due process was not a harmless error. While the Board does not condone the applicant's actions, under the facts of this particular case there was a substantial doubt that the same outcome would have occurred without the error. Therefore, the Board granted relief for an upgrade of discharge to Honorable.

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. However, the Board finds that the applicant was not provided full administrative due process in the execution of his discharge.

In view of the foregoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge under the provisions of Title 10, USC 1553.

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 USAF Offutt AFB, NE on 11 Oct 00 UP AFI 36-3208, para 5.51 (Misconduct - Civilian Conviction). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 4 Sep 79. Enlmt Age: 17 7/12. Disch Age: 21 1/12. Educ: HS DIPL. AFQT: N/A. A-74, E-36, G-42, M-52. PAFSC: 3P031 - Security Forces Apprentice. DAS: 29 Dec 97.

b. Prior Sv: (1) AFRes 21 Apr 97 - 22 Jul 97 (3 months 2 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 23 Jul 97 for 4 yrs. Svd: 03 Yrs 02 Mo 17 Das, of which AMS is 03 yrs 02 months 16 days (excludes 1 day lost time).

b. Grade Status: SrA - 24 Nov 99

c. Time Lost: 21 Aug 00 thru 21 Aug 00 (1 day).

d. Art 15's: (1) 23 Nov 99, Offutt AFB, NE - Article 113. You, on or about 14 Nov 99, on post as a sentinel at Delta 17, were found sleeping at your post. Suspended reduction to A1C. Forfeiture of \$200.00 pay, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR/UIF, 18 SEP 00 - Civil arrest for closed property and carrying a concealed weapon.

f. CM: None.

g. Record of SV: 23 Jul 97 - 15 Jan 99 Offutt AFB 5 (HAF Dir)
16 Jan 99 - 15 Jan 00 Offutt AFB 4 (Annual)

h. Awards & Decs: AFGCM, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (05) Mos (20) Das
TAMS: (03) Yrs (02) Mos (17) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Jan 06.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Police Department Record Check.
3. Three Character References.

16MAR06/ia



January 18, 2006

To The Discharge Review Board:

I am presenting this letter on behalf of myself, [REDACTED], describing the circumstance, which resulted in my receiving a General Discharge from the U. S. Air Force, and asking you to favorably consider my request to upgrade my discharge to Honorable. I received a civil court conviction for carrying a concealed weapon. I had forgotten that the weapon was in the trunk of my vehicle; it should not have been there in the first place. I should have taken steps to store my weapon in the proper location. There was no intent to use the weapon or to harm anyone.

I apologize for and deeply regret the circumstances that led up to my discharge. I acted very immature and made a number of mistakes which if I could do it over again I would be more responsible and not repeat those mistakes. My discharge has prevented me from finding employment in my military career field of Security. If my discharge was upgraded to Honorable, my GI Bill would be reinstated and I could retrain and earn higher wages to better support my child and myself. I would also have another chance to serve my country in either the Reserves or National Guard.

Thank you for your time and careful consideration of this matter that is very important to my current and future plans and goals in the civilian workforce.





DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 55TH WING (ACC)
OFFUTT AIR FORCE BASE, NEBRASKA

SEP 27 2000

MEMORANDUM FOR SRA: [Redacted]

FROM: 55 SFS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Misconduct--Civilian Conviction. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.51. 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 reason for this action is:

a. On or about 29 August 2000, you were convicted in Douglas County District Court for the offense of unlawfully carrying on or about your person a concealed weapon on 24 August 2000. For this incident you received a Letter of Reprimand dated 18 September 2000. Additionally, this Letter of Reprimand was added to your existing UIF. (Atch 1-1)

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 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 and probably any other branch of the military.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for your to consult Captain: [Redacted]; Bldg 323C, RM 302, Phone 4-3939, at 0800 on 28 Sep 00. 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 2 OCT 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 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 55th Medical Group, Physical Exams, Building 527 (Fairchild Hall), Room 115, at 1300 on 28 Sep 00 for the examination. Please pick up your medical records 24 hours prior to your appointment.

8. You have been scheduled for an initial separation appointment. You must report to the 55th Mission Support Squadron, Separations and Retirements Section, Room 235, Bldg 323C, at 1000 on 28 Sep 00 with your escort.

9. You have been scheduled for a pre-separation briefing. You must report to the Family Support Center at _____ on _____ for the briefing.

10. 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 unit orderly room.

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



Commander, 55th Security Forces Squadron

Attachments:

1-1: Douglas County Court Conviction dated 29 Aug 00, Omaha Police Report, and Letter of Reprimand dated 18 Sep 00