

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
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 A94.06	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 HE

HEARING DATE 21 Nov 2006	CASE NUMBER FD-2006-00101	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.

INDORSEMENT		DATE: 12/5/2006
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-2006-00101

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: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's characterization of discharge inequitable.

ISSUE:

Although not explicitly stated, the applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15, a Vacation, and a Letter of Reprimand for misconduct. While none of the applicant's misconduct reflects favorably upon his Air Force career, in consideration of the totality of his military service, the Board believed his military service is best characterized as 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 and that the applicant was provided full administrative due process.

However, in view of the foregoing findings, the Board further 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 AMN) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Shaw AFB, SC on 19 Sep 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 5 Sep 78. Enlmt Age: 18 0/12. Disch Age: 23 0/12. Educ: HS DIPL. AFQT: N/A. A-74, E-74, G-70, M-68. PAFSC: 1W031A - Weather Forcaster Apprentice. DAS: 12 Sep 00.

b. Prior Sv: (1) AFRes 27 Sep 96 - 12 Aug 97 (10 months 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 Aug 97 for 6 yrs. Svd: 04 Yrs 01 Mo 08 Das, all AMS.

b. Grade Status: Amn - 21 Jun 01 (Vacation of Article 15, 5 Jul 01)
A1C - 21 Jun 01 (Article 15, 21 Jun 01)
SrA - 27 Jan 00
A1C - 27 Sep 97

c. Time Lost: None.

d. Art 15's: (1) 5 Jul 01, Vacation, Shaw AFB, SC - Article 92. You did, between on or about 21 Jun 01, and on or about 27 Jun 01, violate a lawful general order, to wit: paragraph 2.6, Shaw AFB Pamphlet 32-113, dated 17 Nov 00, by wrongfully having a member of the opposite sex in your dormitory room overnight. Reduction to Airman. (No appeal) (No mitigation)

(2) 21 Jun 01, Shaw AFB, SC - Article 134. You, being indebted to Consumer Credit Counseling Service in the sum of \$5175.49 for various overdue payments to third-party creditors, which amount became due and payable on 18 May 01, did, from 18 May 01 until 14 Jun 01, dishonorably fail to pay said debt. You, did, on or about 30 May 01, wrongfully solicit individuals under the age of twenty-one to consume alcohol. Reduction to AB (reduction in excess of the grade of A1C suspended). Restriction to Shaw AFB, South Carolina for 45 days, and 45 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR/UIF, 23 JUL 01 - Failure to obey a lawful order.

DD FORM 1408, 20 SEP 00 - Traffic ticket for speeding.

f. CM: None.

g. Record of SV: 13 Apr 97 - 12 Apr 99 Davis-Monthan AFB 5 (Initial)
13 Aug 99 - 12 Apr 00 Davis-Monthan AFB 4 (Annual)
13 Aug 00 - 20 Apr 01 Shaw AFB 2 (Annual)REF

h. Awards & Decs: AFLSA W/1 OLC, AFTR, AFGCM, SAEMR, AFOUA.

i. Stmt of Sv: TMS: (04) Yrs (11) Mos (23) Das
TAMS: (04) Yrs (01) Mos (08) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 25 Feb 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Enlisted Performance Report.

12APR06/ia

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved OMB No. 0704-0004 Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) If date is more than 15 years ago, submit a DD Form 149

2001/09/17 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) 5. BOARD ACTION REQUESTED (X one)

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION

28th OWS Shaw AFB Sumter SC

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

I am requesting an upgrade because I feel I have served my country honorably for more than four years. I am trying to use my G.I. Bill, but have not been able too because of my discharge characterization. I am and have always been an

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)

EPR

9. TYPE OF REVIEW REQUESTED (X one)

X CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS b. TELEPHONE NUMBER (Include Area Code)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE b. TELEPHONE NUMBER (Include Area Code)

(Forward notification of any change in address.)

c. E-MAIL

d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. SIGNATURE - REQUIRED (Applicant or person in item 11. above) b. DATE SIGNED - REQUIRED (YYYYMMDD) 2006/02/25

CASE NUMBER (Do not write in this space.) FD 2006-00101

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

honest and trustworthy person. There are people that have never served even one day in the military, that think if I didn't get an honorable discharge then I must be a bad person. These people are the people that look at my job applications, see I was in the Air Force, see I didn't get an honorable discharge, and pass on me simply because they don't know what a general discharge is. Without an honorable discharge, my skills that I learned in the Air Force, my leadership, and my integrity is being wasted in the civilian world.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

Thank you for considering me. Your decision means everything to my family and me.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO: 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

MEMORANDUM FOR Amn:.....

22 Aug 01

FROM: 28 OWS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct – minor disciplinary infractions. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, paragraph 5.49. If my recommendation is approved, your discharge will be characterized as honorable or general. I recommend your discharge be characterized as general.
2. My reasons for this action are:
 - a. On or about 20 Sep 00, you were caught by radar driving 46-mph in a posted 30-mph zone. For this misconduct you received a speeding ticket, dated 20 Sep 00.
 - b. Between on or about 18 May 01 and on or about 14 Jun 01, you dishonorably failed to pay your debt to Consumer Credit Counseling Service in the sum of \$5175.49. Additionally, on or about 30 May 01, you wrongfully solicited individuals under the age of twenty-one to consume alcohol. For these acts of misconduct, you received an Article 15 nonjudicial punishment action, dated 21 Jun 01. Punishment consisted of a suspended reduction to the grade of Airman Basic, reduction in excess of the grade of Airman First Class was suspended through 20 Dec 01, restriction to Shaw Air Force Base, South Carolina for 45 days, and 45 days extra duty.
 - c. Between on or about 21 Jun 01 and on or about 27 Jun 01, you violated a lawful order by having a member or the opposite sex in your dormitory room overnight. For this misconduct, you were reduced to the grade of Amn.
 - d. On or about 14 Jul 01, you were derelict in the performance of your duties by failing to obey the order of several patrolmen to leave the scene and return to your room. For this misconduct, you received a letter of reprimand (LOR), dated 23 Jul 01.
3. In addition, your file contains my recommendation that you be administratively discharged from the Air Force based on your pattern of misconduct, the effect your actions have on good order and discipline, and your statements that you do not want to be in the Air Force. This recommendation is annotated on a memorandum for record (MFR), dated 31 Jul 01 and is attached at Tab 4a.
4. 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 and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably not be allowed to enlist in any other branch of the armed forces.
5. 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.....; Area Defense Counsel, 895-9530, on 23 Aug 01, at 1000 hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within three days after receipt of the notification memorandum, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You must report to the Shaw AFB Hospital, Physical Examinations Section, between the hours of 1100 – 1300, Mon – Thurs, for a medical examination.

9. 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 orderly room.

10. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge, unless the reason is homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

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



Commander

Attachments:

1. DD Form 1408, 20 Sep 00 (Tab 4)
2. AF Form 3070, 21 Jun 01 w/atchs (Tab 4)
3. AF Form 366, 5 Jul 01 w/atchs (Tab 4)
4. LOR, 23 Jul 01 w/atchs (Tab 4)
5. MFR, 31 Jul 01 (Tab 4a)
6. Respondent's Receipt of Notification (Tab 5)