

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%; margin-top: 5px;"></div>	GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%; margin-top: 5px;"></div>
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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
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A94.05 A57.03	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 IIE

HEARING DATE 22 Feb 2007	CASE NUMBER FD-2005-00008	
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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: 2/22/2007
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

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 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: Applicant contends discharge was inequitable because it was too harsh. The applicant believed that the discharge was based on one isolated incident in his entire career. The records indicated the applicant received an Article 15, seven Letters of Reprimand, and two Records of Individual Counseling for misconduct. The misconduct included late for duty on numerous occasions, failure to obey a lawful order, pattern of misconduct, solicitation to commit an offense, unlawfully striking another airman, and fleeing from an armed force policeman. 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.

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 AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Langley AFB, VA on 13 Jan 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for an Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 1 Oct 81. Enlmt Age: 19 4/12. Disch Age: 21 3/12. Educ: HS DIPL. AFQT: N/A. A-46, E-30, G-42, M-38. PAFSC: 2A631D - Aerospace Propulsion Apprentice. DAS: 26 Sep 01.

b. Prior Sv: (1) AFRes 28 Feb 01 - 6 Mar 01 (9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 7 Mar 01 for 4 yrs. Svd: 01 Yrs 10 Mo 07 Das, all AMS.

b. Grade Status: AB - 12 Dec 02 (Article 15, 12 Dec 02)
Amn - 07 Sep 01

c. Time Lost: None.

d. Art 15's: (1) 12 Dec 02, Langley AFB, VA - Article 95. You, did, on or about 26 Oct 02, flee apprehension by SrA [redacted] an armed force policeman, a person authorized to apprehend the accused. Article 128. You, did, on or about 26 Oct 02, unlawfully strike A1C [redacted] in the mouth with your fist. You, did, on or about 26 Oct 02, unlawfully strike Amn [redacted] on his arm with your fist. Reduction to AB, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 11 DEC 02 - Solicitation to commit an offense.
LOR, 11 DEC 02 - Late for duty.
LOR, 04 DEC 02 - Late for duty.
CR, 28 OCT 02 - Pattern of misconduct.
LOR/UIF, 7 OCT 02 - Late for duty.
LOR/UIF, 3 OCT 02 - Late for duty and failure to obey a lawful order.
LOR/UIF, 23 SEP 02 - Failure to obey a lawful order.
LOR, 28 JAN 02 - Failure to obey a lawful order by wearing a uniform reflecting incorrect rank.
RIC, 24 JAN 02 - Late for duty (dated wrong).
RIC, 21 MAR 02 - Late for duty (dated wrong, use date he indorsed RIC).

f. CM: None.

g. Record of SV: 7 Mar 01 - 7 Nov 02 Langely AFB 2 (Initial)REF

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (01) Yrs (10) Mos (16) Das
TAMS: (01) Yrs (10) Mos (07) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 19 Jul 06.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

08AUG06/ia

24 2006

FD 2005-00008

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

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	<input checked="" type="checkbox"/> AIR FORCE	COAST GUARD
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b. GRADE/RANK AT DISCHARGE	d. SOCIAL SECURITY NUMBER
E-1	

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

3-17-2003

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)

<input type="checkbox"/> HONORABLE
<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS
<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS
<input type="checkbox"/> BAD CONDUCT (Special court-martial only)
<input type="checkbox"/> UNCHARACTERIZED
<input type="checkbox"/> OTHER (Explain)

5. BOARD ACTION REQUESTED (X one)

<input checked="" type="checkbox"/> CHANGE TO HONORABLE
<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION

Virginia Air Force Base

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

I feel my discharge was improper due to it was based on one isolated incident in 18+ months of service with no other adverse action.

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.)

9. TYPE OF REVIEW REQUESTED (X one)

<input checked="" type="checkbox"/> 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.
<input type="checkbox"/> 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.
<input type="checkbox"/> 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 (See Item 10 of the Instructions about counsel/representative.)

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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
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12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE

b. TELEPHONE NUMBER (Include Area Code)

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.)

CASE NUMBER
(Do not write in this space.)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

7-19-2006

FD 2005-00008

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

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

16. REMARKS (If applicable) Now as I am getting older I regret the incident leading to my leaving the Air Force and regret daily opting to leave the military. In kind-sight I feel that I should have fought harder to stay and fight for my career in the Air Force. I think back on when I first joined the Military. I was given the honor to design our company/squadron T-shirts and during graduating from basic training I was front row Center carrying the United States Flag with pride. I decided then and there my career path, and how proud my parents were of me; however, somewhere along the way I lost my path. As stated earlier I regret this decision deeply. Please consider my request for upgrading my military Record to honorable discharge. Thank You

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
HEADQUARTERS 1ST FIGHTER WING
LANGLEY AIR FORCE BASE VA

FD7005-0008

30 DEC 2002

MEMORANDUM FOR AB: [REDACTED], 1 AMXS

FROM: 1 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. On or about 24 Jan 02, you were late for duty. For this incident, you received a Record of Individual Counseling (RIC), dated 24 Jan 02.

b. Between on or about 25 Jan 02 and on or about 26 Jan 02, you were wearing a uniform with the wrong rank. For this incident, you received a Letter of Reprimand (LOR), dated 28 Jan 02.

c. Between on or about 19 Mar 02, and on or about 21 Mar 02, you were late for duty. For these incidents, you received an RIC, dated 21 Mar 02.

d. On or about 19 Sep 02, you failed to obey a lawful order given to you by TSgt [REDACTED] to ensure you have your line badge on your person at all times. For this incident, you received an LOR, dated 23 Sep 02. In addition, this established your Unfavorable Information File (UIF).

e. On or about 3 Oct 02, you were late for duty. For this incident, you received an LOR, dated 3 Oct 02. In addition, this was placed in your UIF.

f. On or about 4 Oct 02, you were late for duty. For this incident, you received an LOR, dated 7 Oct 02. In addition, this was placed in your UIF.

g. On or about 1 Dec 02, you inappropriately solicited SrA [REDACTED] by asking him to reach into your pocket for no reason and asking him if he "likes that kind of thing." For this incident, you received an LOR, 11 Dec 02.

h. On or about 4 Dec 02, you failed to follow dormitory policy by placing your trash on the sidewalk of building 39. For this incident, you received an LOR, dated 4 Dec 02.

i. On or about 10 Dec 02, you were late for duty. For this incident, you received an LOR, dated 11 Dec 02.

j. On or about 26 Oct 02, you fled apprehension by SrA [redacted], a security forces patrolman, a person authorized to apprehend you, unlawfully struck A1C [redacted] in the mouth with your fist, and unlawfully struck Amn [redacted] on his arm with your fist. For this incident, you received an Article 15 on 12 Dec 02, with a punishment of a reduction to the grade of Airman Basic and 30 days extra duty. In addition, this Article 15 was placed in your Unfavorable Information File (UIF).

3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g) regarding recoupment of education assistance funds, if applicable. 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 any special pay, bonus, or education assistance funds may be subject to recoupment.

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, Area Defense Counsel, 54 Willow Street, Bldg. 147, (757) 764-5607 at 1500 hours on 30 Dec 2002. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 1030 hours on 3 JAN 2002 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

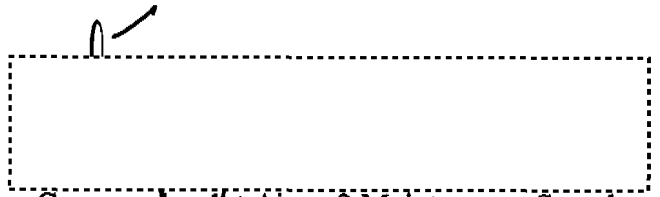
6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a medical examination. You must report to the 1st Medical Group, Physical Exam Section at 1545 hours on 31 Dec 2002 and an additional examination will be scheduled if necessary.

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 in the unit orderly room.

FD 7005-00008

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


Commander, 1st Aircraft Maintenance Squadron

Attachments:

1. Supporting Documents
 - a. RIC, dated 24 Jan 02
 - b. LOR, dated 28 Jan 02
 - c. RIC, dated 21 Mar 02
 - d. LOR/UIF, dated 23 Sep 02
 - e. LOR/UIF, dated 3 Oct 02
 - f. LOR/UIF, dated 7 Oct 02
 - g. LOR, 11 Dec 02
 - h. LOR, dated 4 Dec 02
 - i. LOR, dated 11 Dec 02
 - j. Article 15/UIF, dated 12 Dec 02
2. Receipt of Notification Memorandum