

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) _____	GRADE SSGT	AFSN/SSAN _____
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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
YES	No	
	X	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTIC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A92.01 A92.03 A94.05	INDEX NUMBER A49.00	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 08 Mar 2007	CASE NUMBER FD-2005-00469	
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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.

X – Upgrade of Discharge, Change of Reenlistment Code and Change of Reason & Authority are Denied

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INDORSEMENT TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	FROM:	DATE 3/8/2007 SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00469

GENERAL: The applicant appeals for 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: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are 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.

ISSUES:

Issue 1. Applicant contends his discharge was inequitable because it was too harsh. The records indicated the applicant received a General Discharge, Under Honorable Conditions, for Unsatisfactory Participation in the Kansas Air National Guard. The applicant had nine or more unexcused absences in a 12-month period. Air Force Instruction 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, paragraph 3.13.2., Unsatisfactory Participation, states that "member may be discharged when the member has accumulated nine or more unexcused absences from UTA within a 12-month period. 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 information contained in the records. 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 SSGT) (HGH SSGT)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF US ANG, Topeka, KS on 30 Mar 00. UP AFI 36-3209, para 3.13.2 (Unsatisfactory Participation). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Mar 68. Enlmt Age: 23 7/12. Disch Age: 32 0/12. Educ: HS DIPL. AFQT: N/A. A-80, E-72, G-82, M-81. PAFSC: 2T151 - Vehicle Operations Dispatacher. DAS: 8 Jul 97.

b. Prior Sv: (1) Combined U.S. Army Reserve and U.S. Naval Reserve from 18 Apr 85 through 7 Jul 97 is 9 yrs 7 months 21 days, of which AMS is 1 yr 3 months 9 days (See Army and Navy Annual Statements and AF Forms 526 for TMS and TAMS numbers). PFC(E3) - 22 Jul 96. SPC(E4) - 7 Jan 97. No performance reports.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted in US ANG as SrA 8 Jul 97 for 6 yrs. Svd: 02 Yrs 08 Mo 23 Das, of which AMS is 8 months 6 days.

b. Grade Status: SSGT - 10 Jan 99

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LS/CC MEMO, 6 APR 00 - Twenty(20) unexcused absences in the past twelve months.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: ARAM, AFCM, AFLSAR, AFTR, AFSM, SEASDR, ARSM, NDSM, AFEM, NEA, JSAM, AFRM W/M DEV, NATOM, JMUA, NEPM, NERM.

i. Stmt of Sv: TMS: (13) Yrs (07) Mos (23) Das
TAMS: (01) Yrs (11) Mos (16) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Nov 05.

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

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Personal Statement.
3. NGB Form 22, 30 Mar 00.
4. Discharge Order, 12 Apr 00.
5. Letter of Notification for Intent to Discharge, 6 Apr 00.
6. Pay Statements.
7. Retirement Point Summary.
8. Certification of Course Completion.
9. Two DD Forms 214.
10. Performance Comments.
11. Joint Service Achievement Medal.
12. Request for Conditional Release.
13. Retention Interview Record.
14. Decoration Recommendation.
15. Three Letters of Appreciation.
16. Deployment Order.
17. AFT/VTA Attendance Policy.

24JAN06/ia

JAN 17 2006

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.

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.

Form section 1: APPLICANT DATA. Includes fields for branch of service (Air Force checked), name, grade/rank (E-5/SSGT), date of discharge (20000330), discharge characterization (General/Under Honorable Conditions checked), and board action requested (Change to Honorable checked).

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

I met the satisfactory yearly requirements for UTA/AT. I didn't receive counsel or was given the chance to prove this fact. The letter of intent to discharge, dated a month after discharge, and the NGB-22 itself were sent to the wrong address. I have attached a personal statement, which goes into greater detail. Also numerous Administrative mistakes as noted on DD Form 149.

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.)

Letter AFDRB Docket# FD-2005-00469 Dated 06 December 2005, DD Form 149 with sticky note attached dated received Dec 05 2005.

9. TYPE OF REVIEW REQUESTED (X one)

Form section 9: TYPE OF REVIEW REQUESTED. Includes options for record review, hearing at government, and hearing at traveling panel.

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS

None needed at this time.

b. TELEPHONE NUMBER (Include Area Code)

e. 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.

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)

e. 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.

CASE NUMBER (Do not write in this space.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)

b. DATE SIGNED - REQUIRED (YYYYMMDD)

20051215

FD 2005-00469

November, 14 2005

From: [REDACTED]

Subject: Personal Statement

To Whom It May Concern:

I would like to submit this statement of events and circumstances "In my Opinion" that resulted in this action.

Before, during and after this enlistment, it was common knowledge that my civilian occupation was that of an OTR truck driver. This type of job made it complicated and not always feasible to attend UTA's on the scheduled dates, due to traveling aboard.

My job and attendance of UTA's was never an issue or problem until approximately late spring of FY 99. While deployed for Operation Joint Guard there was a change in my chain of command and a new/different attendance policy implemented by the new Chief of Transportation.

The new/different attendance policy, which I have enclosed, states that a five day notice was required if drills couldn't be attended or they would be considered unexcused. On most occasions, I was lucky to have a 24 hour window of when I would be returning home. I have enclosed two LES from FY 99, 2000 and a retirement point summary. These items show my completed UTA and AT's. After review, I figure an average of 4 UTA's per month and 14 AT days for both years, which I thought would be considered a satisfactory year?

I realize that this corrective action is overdue, but I did not discover the type of discharge until 2002 and have had some medical problems since then. I obviously knew that I was discharged, but never dreamed it was General, since nothing was ever mentioned while enlisting in the Army Guard. Additionally, I don't feel I had the opportunity to represent my side, like I'm attempting to do now. Due to the fact that the Letter of Intent to Discharge, dated a month after my discharge, and my NGB-22 were assumingly mailed to the wrong address.

In closing, I don't feel my service during this enlistment was either General or Unsatisfactory. I guess my question is, how can UTA/AT's paid and credited, be unsatisfactory?

Respectfully,

[REDACTED]

P.S. I have also enclosed numerous documents, retention reviews, letters of appreciations, decorations, etc.. to give the board and idea of what I thought my character of service was during my enlistment.



KANSAS AIR NATIONAL GUARD
HQ, 190TH AIR REFUELING WING
5920 E. STREET, TOPEKA, KS 66619-5370

Personnel Data-Privacy Act of 1974 (5 USC 552a)

SPECIAL ORDER
AZD - 48

12 APR 00

SSGT [redacted] (Mailing address: [redacted])
[redacted] is relieved from assignment with the 190TH LOGISTICS SQUADRON,
PAS: D71LP2HD, KSANG, 5920 E Street, Topeka, KS 66619-5370 and discharged from the
KSANG and as a Reserve of the Air Force effective 30 MAR 00. Type of discharge:
GENERAL. Airman will be furnished NGB Form 439. Authority: AFI 36-3209, para 3.13.2.

FOR THE COMMANDER

[redacted signature box]

NCOIC, Military Personnel Flight

DISTRIBUTION:

Indiv	-2	TAG/AIR	-2
SG	-1	DP	-1
FM	-1	HRO	-1
UNIT	-1	LGSM	-1
SFS	-1	DPC	-1
EO	-1		

15AFRDISCIT



KANSAS AIR NATIONAL GUARD

190 Logistics Squadron
FORBES FIELD (ANG), TOPEKA, KANSAS

MEMORANDUM FOR: SSgt:

6 April 2000

FROM: LS/CC

SUBJECT: Letter of Notification for Intent to Discharge

1. I am recommending your discharge from the Kansas Air National Guard in accordance with AFI 36-3209, Chapter 3, Paragraph 3.13.2. My recommendation is your discharge shall be characterized as General Under Honorable Conditions.
2. My reason for this action is that you have had 20 unexcused absences in the past twelve months. In accordance with AFI 36-3209, Chapter 3, Paragraph 3.13.2, as an unsatisfactory participant, you will be separated.
3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. Your military legal counsel is Maj: . He may be reached at (316) 267-2512. You have the right to consult civilian counsel at your own expense.
5. You have the right to submit statements in your own behalf or documents to be considered in the disposition of this case. Any statements you want the separation authority to consider must reach me by 24 April 2000. The appropriate authority will consider granting an extension of time to reply, if yourself or your counsel need additional time. You or your counsel must submit a written request for such a delay, stating the reasons and how much additional time will be needed. 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. You have the right to present your case to an administrative discharge board.
6. You may waive the above rights after having the opportunity to consult with legal counsel. Within 15 days after receipt of this letter of notification, you must return an attachment with your signature showing decisions on each of these rights.
7. You must sign and return the attached Receipt of Letter of Notification immediately, acknowledging receipt of this Letter of Notification and attachments.
8. The Privacy Act Statement as explained in AFI 36-3209, attachment 14, covers any personal information you furnish in rebuttal. A copy of AFI 36-3209 is available for your use. You may obtain a copy at the MPF or from your orderly room.

Attachment
Receipt of Letter of Notification

Commander