

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []		GRADE A1C	AFSN/SSAN []					
TYPE	GEN	X	PERSONAL APPEARANCE	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		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD				
A94.11 A92.21 A93.01 A92.01 A93.07 A94.05		A67.10		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		CASE NUMBER						
13 Jun 2007		FD-2007-00151						
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. via teleconference between Robins AFB, Georgia, and Andrews AFB, Maryland.								
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.								
X – Upgrade, RE Code, and Reason for Discharge								
[]								
INDORSEMENT				DATE: 6/18/2007				
TO:				FROM:				
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742				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, to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, via video teleconference between Andrews AFB, MD and Robins AFB, GA on 13 Jun 2007. The following witnesses also testified on the applicant's behalf: her mother, Mrs. MB, and her father, Mr. DB.

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: Applicant received a General discharge for Minor Disciplinary Infractions.

Issue 1. Applicant contends an impropriety in her discharge due to the marginal nature of the infractions on which it was based. The records indicated the applicant received two Article 15s, two Letters of Reprimand, and one Record of Individual Counseling for misconduct. The Board concluded that the misconduct, especially the assault that resulted in the applicant's second Article 15, warranted administrative discharge. It appeared to the Board that the applicant was given several opportunities to change her behavior and yet she continued to engage in misconduct. This was evident following the applicant's receipt of an LOR in May 2005 for misusing her government e-mail. She was ordered by her supervisor on 31 May 2005 to check her e-mail only twice each day at specified time and yet she disobeyed this order the very next day by checking her e-mail without authorization. The Board concluded the discharge, reason for discharge and reenlistment code was appropriate for the reasons which were the basis for this case.

Issues 2 and 3. Applicant contends an impropriety in her discharge in that only two of her four disciplinary actions were legally sufficient. She states, relying on a memo from her defense counsel at the time of her discharge, that the 24 May 2005 LOR was not legally sufficient as it was given solely because an LOR that had been given to her just days before had been removed from the applicant's PIF as it was not legally sufficient. She also feels that the RIC given on 4 June 2005 was legally insufficient because it did not comply with AFI 36-2907 in that she was not offered the opportunity to respond, there was no Privacy Act statement on the form, and it does not state how long the applicant had to respond. Regarding the contention that the LOR was legally insufficient, the applicant admitted that she committed the misconduct documented in the LOR. Furthermore, the LOR was served on the applicant within four duty days of the misconduct taking place. Therefore, the Board could find no connection between the administration of the 24 May 2005 LOR and any previous LORs that may have been withdrawn. Regarding the RIC, while it appears that only the first page of the RIC was served on the member and that the member may not have been given the opportunity to respond, even if this were to be considered an oral counseling, as the applicant contends it should, the applicant again admits that she committed the misconduct in question and discharge action was initiated shortly thereafter. The Board determined that this error did not constitute prejudicial error, i.e., there was not substantial doubt that the discharge would have remained the same if the error had not been made. Even if this were to be considered an oral counseling due to legal deficiencies, the extent and scope of the applicant's misconduct makes it clear that discharge action was warranted and that a general service characterization was appropriate. The characterization, reason for discharge and reenlistment code received by the applicant was found to be appropriate.

Issue 4. Applicant contends an impropriety in her discharge as her character of service more appropriately met the definition of "honorable" in AFI 36-3208, rather than "general." More specifically, she states that her service met the Air Force's standards of acceptable conduct and performance of duty and was so meritorious that any other characterization was inappropriate. She states that the positive aspects of her military record outweigh the negative aspects. However, the Board, much like the applicant's chain of command, determined that this was not the case. The applicant's history of misconduct, especially the assault, eclipses any positive contributions made by the applicant during her time in the Air Force. Her EPR ratings consist of a "3" referral report, and two ratings of "4." While the EPRs were generally good, they certainly don't paint the applicant as a star performer. Therefore, the Board found no impropriety or inequity in the applicant's discharge characterization, reason for discharge or reenlistment code.

Issue 5. The applicant cites as an impropriety that she was not given probation and rehabilitation (P&R) by the separation authority and she was not moved to another duty section and given another chance, as suggested by her defense counsel during discharge processing. During the hearing, the applicant conceded that P&R is a discretionary act by the commander and was not mandated in her case. Given the applicant's history of repeated misconduct, even after being given multiple opportunities to correct her behavior, it was entirely reasonable that the applicant's chain of command did not give her yet another chance or grant her P&R. The applicant admits that the misconduct was her own fault and does not attempt to claim that she is innocent of the alleged offenses. While the Board commends the applicant for accepting responsibility for her misconduct, 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, change the reason and authority for the discharge, or change the reenlistment code, thus the applicant's characterization, reason and authority for discharge and reenlistment code should not be changed.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED] (Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Luke AFB, AZ on 20 Jul 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for an Honorable Discharge, to Change the RE Code, and Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 12 Oct 83. Enlmt Age: 17 7/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-74, E-64, G-66, M-46. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 18 Apr 02.

b. Prior Sv: (1) AFRes 12 May 01 - 07 Aug 01 (2 months 26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Aug 01 for 6 yrs. Svd: 03 Yrs 11 Mo 13 Das, all AMS.

b. Grade Status: A1C - 28 Sep 04 (Article 15, 28 Sep 04)
SrA - 21 Jan 04
A1C - 21 Sep 01

c. Time Lost: None.

d. Art 15's: (1) 28 Sep 04, Luke AFB, AZ - Article 128. You did, at or near Surprise, Arizona, on or about 5 Aug 04, commit an assault upon A1C: [REDACTED] by striking her in the face with your fist, in the stomach with the shaft of a golf club, and in the lower jaw with the shaft of a golf club. Reduction to Airman (reduction below A1C suspended). Forfeiture of \$400.00 pay per month for two months, and a reprimand. (No appeal) (No mitigation)

(2) 19 Mar 02, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 26 Jan 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21 and from frequenting a local hotel, as it was your duty to do. Article 107. You, did, on or about 8 Feb 02, with intent to deceive, sign an official statement, to wit: AF Form 1168, Statement of Suspect/Witness/Complaint in reference to incident on or about 26 Jan 02, which statement was totally false, and was then known by you to be so false. Suspended reduction to Airman. Forfeiture of 619.00 pay.

(No appeal) (No mitigation)

- e. Additional: RIC, 06 APR 05 - Failure to obey a lawful order.
 LOR, 24 MAR 05 - Misuse of a government computer.
 LOR, 22 MAR 04 - Failure to go.
- f. CM: None.
- g. Record of SV: 08 Aug 01 - 07 Apr 03 Luke AFB 4 (Initial)
 08 Apr 03 - 07 Apr 04 Luke AFB 4 (Annual)
 08 Apr 04 - 11 Feb 05 Luke AFB 3 (CRO)REF
- h. Awards & Decs: NDSM, GWOTSM, AFTR, AFOUA.
- i. Stmt of Sv: TMS: (04) Yrs (02) Mos (09) Das
 TAMS: (03) Yrs (11) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 20 Apr 07.
 (Change Discharge to Honorable, Change the RE Code, and Reason for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Eight Character References.
3. Congressional Correspondence.
4. DD Form 214.
5. DD Form 149.

03MAY07/ia

April 19, 2007

PD 2007-00151

To: Members of the Air Force Discharge Review Board

From:

[Redacted]

I, [Redacted], respectfully submit the following personal statement in an effort to apologize for the many mistakes that I have made during my career in the Air Force. Looking back as a much more mature 23 year old, I can now see how I could have done so many things differently. In life we are not allowed the luxury of doing it over — just the opportunity to learn from it and apply the lessons to our future. This I continue to do both in my personal and professional life.

Unfortunately, I did not foresee the many consequences of my actions, poor judgments and bad decisions. I could not see how it would all eventually lead to the disappointment that I would cause myself and ultimately my family. I did not have the maturity needed to carefully evaluate the future cost of my actions by looking at a situation and doing what was right instead of what I felt was right. At that time, I had not gone through the many difficult circumstances that allow you to obtain the lessons that one acquires when put in a position to have to learn from mistakes made. I did not realize the benefits of seeking support from others, having a positive attitude, making the required changes, and lastly taking the advice of those who care about me and have been there for me time and time again.

When I joined the Air Force I was 17 years old, and had graduated from high school two months before. Based on the age requirement in Georgia, I graduated from high school one year early. Within ten months of my enlistment I was stationed at Luke Air Force Base in Arizona, married and expecting my first child. I worked on the flight line loading bombs on F-16 aircrafts and was not able to perform my job duties due to the pregnancy. I was reassigned to another job. Combined with the added stress of learning a new job, I began to realize that I was in an abusive relationship as well. My husband (A higher ranking Airman two years my senior.) began to display actions associated with an inability to manage his anger, by physically assaulting me, as well as verbally and emotionally abusing me. I brought this situation to the attention of his superiors on base and was told to call the police if the problem came up again. I ended up calling the police on more than one occasion over the next year and a half.

After my daughter was born it was hard finding daycare for her because my husband and I were both put on swing shift because of our flight line jobs. Many times we had to work on weekends or were expected to participate in base activities. We were both fairly new at parenting as well as to the Phoenix area and often had problems finding a baby sitter on the weekends when we both had to work or volunteer for events on base. I tried my best to deal with the many new challenges that I was facing at work and in my personal life, but many times the stress of it all affected me negatively. There were times when as a result of not knowing how to handle some of the situations faced, I did not meet some of my obligations and responsibilities. I did what I felt was the right thing to do when in fact it may not have been. I was facing a very stressful time and many times felt like I was alone in dealing with it all. My husband was not very supportive and I ended up handling many aspects of my daughter's care on my own. In doing what I thought was best, mistakes were made. One weekend, due to a misunderstanding of procedures and caring for a sick baby, I failed to report for weekend duty and as a result received a LOR for it.

While in the Air Force I started taking college courses in the evenings in an effort to continue my education and eventually earn a Bachelor's degree. Although my class load added to my hectic schedule with work and a family, it was a challenge I enjoyed. In my college classes I was applying myself more than when in high school. Succeeding in my efforts with my classes enabled me to deal with the stress that I was facing in my home life and at work. Things were hard for me at times, but I tried my best to keep it all going. During this period I did all that I could to cope with the increasing difficulties in my marriage as well.

Almost two years into our marriage the situation involving my abusive husband was getting worse. When the physical abuse got so bad that I was going to work with bruises on my face, I was finally able to get help from the Air Force with the domestic violence situation that I had been dealing with. My husband's behavior which had led to the abuse he had been inflicting on me was addressed. He was ordered to leave our apartment for a few days and to start attending a mandatory Anger Management course. We were both ordered to get marriage counseling. The counseling sessions did not help because he refused to realize that he had a problem. Even after being arrested following an abusive incident the physical, verbal, and emotional abuse did not stop. I felt that I had no other choice but to divorce him. I was 21 years old, working full time, going to school part time, and raising my young daughter by myself. I felt that I had to do what was necessary to make a better life for myself and my child. Through all these tribulations I pressed on and continued to do well at whatever job duties I was assigned and worked hard on my classes as well. As a result of performing above expectations, I received good ratings on my yearly EPR's and took advantage of any training opportunities that became available to me.

Although I tried my best to maintain my career, raise my daughter, and continue my education, I was very emotionally unstable. The stress of what I had been going through for the past year and a half had taken its toll on my emotional and mental state. At that time an incident involving my husband (the divorce was still pending) and his current girlfriend, (also an Airman and who initiated the incident) resulted in an assault and caused me to receive an Article 15, and lose a stripe. I accepted my punishment and realized my mistake in not using better judgment, considering the consequences of my actions and letting my emotions get the better of me during a confrontational situation. I continued to do the best I could in taking care of my many responsibilities including work, my daughter, and school all the while dealing with the stress of a pending divorce.

A few months after my divorce was final, another incident involving my ex-husband occurred. This incident escalated into what could have been a volatile situation based on the initial actions of my ex-husband and the subsequent actions of my boyfriend who was also an Airman. I tried my best to dissolve the situation and when it became apparent that I could not, I took myself and my daughter out of a potentially dangerous situation and left the location. A few weeks later to my surprise, I was issued a LOR because of what had taken place between my ex-husband and my boyfriend. I decided to appeal the LOR since because I was not at fault for what had happened. With the help of my area defense counsel, I was successful in getting this LOR appealed and withdrawn from my files. I felt discouraged and angry about the situation I was facing in having to continually deal with my ex-husband and felt like I had been deliberately accused by him for an incident that he initiated. What I was not aware of was that once this wrongful LOR had been issued it led to a decision by my superiors to start on an administrative discharge against me for misconduct. The discharge proceedings continued even after the LOR was appealed and taken out of my file. Following that incident, I was still experiencing a very stressful time at work due to a recent job assignment, continued difficulties in dealing with my ex-husband, and other personal matters. I used bad judgment in deciding one day to send an email on my military email account which was not work related and highly inappropriate. This resulted in an LOR which was later added to the on-going discharge proceedings. Shortly after that LOR was issued I was given notice that I would be discharged from the Air Force. I fought the discharge as best I could in the time that I had to do so, and my military area defense counsel presented a case on my behalf against the discharge proceedings. Captain: [redacted] represented me well and stated why it would not be in the Air Force's best interest for me to be discharged. This was based on my overall time in the Air Force, my job performance, and taking into account the many challenges that I had faced during my time of service. She also stressed that if I was discharged, then it should be nothing less than an Honorable discharge based on my overall job performance during the four years that I served. Unfortunately the discharge proceedings went through and a within a few weeks I was given a General under Honorable Conditions Discharge.

Needless to say this devastating blow left me feeling quite disappointed in myself. I realized that I had let myself, my family, and my country down. My family has a long tradition of serving in the military. No one had ever gone through what I had brought upon myself, and for that I felt ashamed and undeserving of any sympathy from them. Here I had the opportunity to do so much more with my career and instead this was where all my bad decisions, poor judgment, and immaturity had led me and I had no one to blame but myself.

My only choice was to deal with it, learn from it, pick up the pieces of my life, and move on. During a month of job hunting, I had the time to reflect on my Air Force career and the insight to realize that I needed to make some changes in myself, develop a better attitude, grow up, and make better choices both personally and professionally as a result of all that had happened to me in the past four years.

Fortunately for me I was able to get a position with a company which has a long tradition of hiring people with military background. My training, work ethic, and dedication to doing my best at any assigned duty resulted in a great opportunity with Cintas, a Fortune 500 company. I have been employed with this company since August 2005, shortly after my discharge from the Air Force. As a result of the changes which have manifested from self-improvement, maturity, the right attitude and lessons learned, I am now proudly able to incorporate the core values that I learned in the Air Force; integrity, service before self, excellence in all I do. I thoroughly enjoy my job at Cintas and can see that my attitude, my actions, and my commitment to excelling at what I do will lead to my success with the company. I have to do what is right and what is required of me in every given situation.

After one year with the company I was promoted to my current position of Service Sales Representative and was granted a transfer to the Atlanta area. I relocated my family and we are now living close to my parents and extended family. More than ever I realize the importance of family and I am so appreciative of my family's continued support in helping me to overcome all that I have been through since leaving home and developing into the person that I am today. I know that I can now become a better role model for my younger brother.

With my training and experience in the Air Force, I have matured into a responsible adult and now have the ability to be a valuable asset to any organization that I am a part of. Not only have I matured but I also realize the importance of complying with rules and regulations. I truly feel that I now have what it takes to be a positive and productive member of the Air Force. I believe, as do the people who wrote letters on my behalf, that I have tremendous potential and now have what it takes to reach the goals that I set for myself. I am proud and honored to have been given the opportunity to serve my country. Should that opportunity ever present itself again, I will proudly be honored to serve in whatever capacity that my skills and abilities are required. I am extremely grateful to the United States Air Force for giving me a head start on my career at the young age of 17.

In closing, I am truly remorseful for my past actions, bad decisions, use of poor judgment, and immaturity. I continue to work hard so that this period of my life does not characterize me presently or the person I am evolving into. I ask for your mercy in looking at my entire record as well as what I have done to turn my life around since my discharge. I am requesting that you give a thorough reconsideration of my General discharge and change it to Honorable, allowing me to retain all my veteran benefits and to rejoin the Air Force and serve my country proudly. I can build on the training that I have received, now that I have fully matured into a responsible adult who works hard, has the right attitude, and takes her responsibilities seriously. I am planning to enroll in classes at Georgia Perimeter College this fall. Being eligible to receive the G.I. Bill would be a significant help to me because I do not get tuition reimbursement as a job benefit. Please consider the information given in this personal statement as well as the other information that have been provided by others on my behalf before making a final decision regarding my case. Thank you in advance for your time and consideration.

Sincerely,

[Redacted signature area]



DEPARTMENT OF THE AIR FORCE
56TH MAINTENANCE OPERATIONS SQUADRON
LUKE AFB, ARIZONA 85309

FD 7007-20151

05 JUL 2005

MEMORANDUM FOR A1C: [REDACTED]

FROM: 56 MOS/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 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as either Honorable or Under Honorable Conditions (General). I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. On or about 20 Mar 04, at or near Luke Air Force Base, Arizona, you failed to report to duty. For this misconduct, you received a Letter of Reprimand, dated 22 Mar 04.

b. On or about 5 Aug 04, at or near Surprise, Arizona, you did, commit an assault upon Airman First Class: [REDACTED] by striking her in the face with your fist, in the stomach with the shaft of a golf club, and in the lower jaw with a golf club. For this misconduct, you received an Article 15, dated 28 Sep 04. Your punishment included a reduction to E-2 with reduction to E-3 suspended, forfeiture of \$400.00 pay per month for two months and a reprimand. This action established the creation of an Unfavorable Information File (UIF).

c. On or about 18 May 05, you sent a profane email letter to Airman: [REDACTED] with a copy directed to Senior Airman: [REDACTED]. For this misconduct, you received a Letter of Reprimand, dated 24 May 05.

d. On or about 31 May 05, you failed to comply with the order of an NCO in that you failed to stay off your work Email and the Internet. For this misconduct, you received a Record of Individual Counseling dated 4 Jun 05.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

3. 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 Captain: _____ at 7383 N. Litchfield Rd., Bldg. 1150, ext 6701, on 7 Jul, at 1330 hours. You may consult civilian counsel at your own expense.
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by _____ unless you request and receive an extension for good cause shown. I will send them to the separation authority.
5. 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.
6. You have been scheduled for a medical examination. You must report to 56th Medical Group, on _____, at _____ hours for the examination. You have been scheduled for a medical examination. You must retrieve your medical records from 56th Medical Group Hospital Outpatient Records and immediately report to Physical Exams, Building 810, with your medical records and your copy of this discharge file for the medical examination.
7. 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 your unit's orderly room.
8. Execute the attached acknowledgment and return it to me immediately.



Commander

Attachments:

1. Supporting Documents
 - a. Letter of Reprimand, dated 22 Mar 04
 - b. Article 15, dated 28 Sep 04
 - c. Letter of Reprimand, dated 24 May 05
 - d. Record of Individual Counseling, dated 6 Jun 05
2. Receipt of Notification Memorandum