

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) []		GRADE A1C	AFSN/SSAN []		
TYPE HON	X	PERSONAL APPEARANCE			
COUNSEL		RECORD REVIEW			
YES	No	NAME OF COUNSEL AND OR ORGANIZATION			
	X	ADDRESS AND OR ORGANIZATION OF COUNSEL			
MEMBER SITTING []		VOTE OF THE BOARD			
		HON	GEN	UOTHC	OTHER
					X+
					X+
					X+
					X+
ISSUES A01.14 A94.56		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 19 Jun 2007		CASE NUMBER FD-2006-00258			
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 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+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY					
INDORSEMENT					
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, 3RD FLOOR ANDREWS AFB, MD 20762-7002			
		DATE: 6/19/2007			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00258

GENERAL: The applicant appeals for a change in the reason and authority for his discharge.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel--Mr. [redacted] from the American Legion, at Andrews AFB on 19 June 2007. The following witnesses also testified on the applicant's behalf: his mother, Mrs. [redacted] and Mr. [redacted]

The following additional exhibits were submitted at the hearing:
Exhibit #5: American Legion statement with Attachments

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Change of reason and authority for the discharge is granted. The board does not grant the request to change the discharge to a Convenience of the Government discharge, but instead changes the reason to Secretarial Authority.

ISSUE:

Issue 1. The applicant contended his discharge was inequitable because it was too harsh and 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 and other documents in his records and concluded that the discharge was inequitable. The Board found his supervisors' failure to document their assistance of the applicant as he prepared to take his Career Development Course (CDC) exams was substantial evidence to conclude that the applicant's discharge was inequitable and the reason for discharge should be changed from Unsatisfactory Performance to Secretarial Authority.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for change in the reason for discharge to Convenience of the Government. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on September 8, 1994) that he understood he must serve for at least 36 months and receive an Honorable discharge to receive future educational entitlements. While he received an Honorable service characterization, he only served for 30 months. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant a change in reason for his discharge.

Issue 3. The applicant requests that the reason for his discharge be changed to Convenience of the Government. The applicant asked that he not be labeled with "Unsatisfactory Performance." Unfortunately for the applicant, the DRB is bound by the Air Force regulations detailing what discharge type is appropriate under what circumstances. An involuntary discharge for the Convenience of the Government would only be appropriate if the applicant met one of the categories listed for such a discharge. While the applicant argued that he was discharged because the Air Force decided not to retrain him, it is not one of the categories listed under the Convenience of the Government discharge. The closest thing to it, governs cases when the member has insufficient retainability for required retraining. In the applicant's case, he was not serving overseas at the time of his discharge and he had not served at least 36 months, both of which are requirements for this category. In the absence of a more appropriate reason for discharge, the DRB believes the most accurate reason for his discharge from the Air Force is Secretarial Authority.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was inconsistent with the procedural and substantive requirements of the discharge regulation because the applicant was unfairly

discharged prior to being given a fair opportunity to receive assistance in passing his CDCs. The Board concludes that the applicant's reason for discharge is more accurately described by Secretarial Authority. The applicant's reason for the discharge should be changed to Secretarial Authority 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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a HON Disch fr USAF Andrews AFB, MD on 30 Apr 04 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance - Failure to Progress in On-The-Job-Training). Appeals for a Change in Reason for Discharge.

2. **BACKGROUND:**

a. DOB: 30 Jul 82. Enlmt Age: 18 9/12. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-40, E-62, G-48, M-46. PAFSC: 4A031 - Health Services Management Apprentice. DAS: 03 Mar 02.

b. Prior Sv: (1) AFRes 23 May 01 - 15 Oct 01 (4 months 23 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Oct 01 for 4 yrs. Svd: 02 Yrs 06 Mo 15 Das, all AMS.

b. Grade Status: A1C - 23 Feb 03
Amn - 23 Apr 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: MEMO FOR 89 MDOS/CC, 8 DEC 03 - Withdrawn from training.
ECI FORM 9, 12 AUG 03 - CDC End of Course exam failure.
Second failure.
ECI FORM 9, 31 MAR 03 - CDC End of Course exam failure.
First failure.

f. CM: None.

g. Record of SV: 18 Oct 01 - 17 Jun 03 Andrews AFB 3 (Initial) **REF**

h. Awards & Decs: NDSM, AFOUA.

i. Stmt of Sv: TMS: (02) Yrs (11) Mos (08) Das
TAMS: (02) Yrs (06) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 May 06.
(Change the Reason for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

09AUG06/ia

JUL 05 2006

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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Service and Communications Directorate (0704-0004). 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 ORGANIZATION. 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 AIR FORCE COAST GUARD

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

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 18 years ago, submit a DD Form 149) 2004 04 30 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) HONORABLE GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS 5. BOARD ACTION REQUESTED (X one) CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO: Military Reasons/other

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 89th MOUS Andrews AFB BAD CONDUCT (Special court-martial only) UNCHARACTERIZED OTHER (Explain)

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.) The reason why I was discharged early was because the military didn't want to cross train me to another job when I only had one and a half years left on contract. The reason why I says unsatisfactory performance was because I failed my CDC's twice. I didn't choose to

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

12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Forward notification of any change in address.) 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.) a. b. DATE SIGNED - REQUIRED (YYYYMMDD) 2006 05 15 CASE NUMBER (Do not write in this space.) FD2006-00258

14. CONTINUATION OF ITEM 8, ISSUES (If applicable) get out, and the reason why I failed my CDC's was because when I got to Andrews AFB, Md (Family practice clinic) there was 35 feet of medical Documents that was backed up from the 90's, years worth of back loged paper work. We worked 12 hrs shifts 7 days a week, night and day shift. It was very very hard to study and focus on CDC's. My 2 1/2 years in the military was spent inside a record room and I never got to experience any other jobs that A 4A031 could do, such as A + D, Systems, Aero Vac and the CDC's had questions about those jobs, no hands on experience. My supervisors were very bad on making sure my CDC's were understood and going over them on regular basis. Colonel Prizer and my first sergent told me and my supervisor Ssgt

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

16. REMARKS (If applicable) that I was eligible for my GI bill. I did pay my one year fee for my GI Bill. They told me since I got a honorable discharge and that I served 2 1/2 years that I was allowed to reciere GI benefits. I started school at Colorado Tech Online for Business Management and I need money for school. Please do everything you possibly can because I have been out of the military for a while now and I cant find my first sergent or commander, Can you please write me a letter or approve my GI benefits, I worked my butt off for the military. I deserve my GI benefits to get my education because I served my country and I was discharged honorably for military reasons. My old supervisor is willing to back me up on my words. Her work number is

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

<p align="center">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p>	<p align="center">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p>
<p align="center">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p>	<p align="center">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p>



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 89TH AIRLIFT WING (AMC)

APR 19 2004

MEMORANDUM FOR A1C: _____, 89 MDOS

FROM: 89 MDOS/CC
1050 West Perimeter Road
Andrews AFB MD 20762


SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance, specifically, Failure to Progress in On-The-Job Training (OJT). The authority for this action is AFPD 36-32, *Military Retirements and Separations* and AFI 36-3208, *Administrative Separation of Airmen*, chapter 5, section E, paragraph 5.26.3. If my recommendation for discharge is approved, your service will be characterized as honorable.
2. My reasons for this action are based on the following:
 - a. You scored 47 percent on the End of Course (EOC) exam for your Career Development Course (CDC) 4A051. The minimum passing score was 65 percent. This was your first failure. This EOC failure is evidenced by ECI Form 9, dated 31 March 2003. (Atchs 1-2)
 - b. You scored 57 percent on the EOC re-take exam for your CDC 4A051. The minimum passing score was 65 percent. This was your second failure. This EOC failure is evidenced by ECI Form 9, dated 12 August 2003. (Atchs 3-4)
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 and the characterization you will receive if you are discharged. If you are discharged, you will be ineligible for reenlistment in the Air Force. Additionally, any education assistance funds you received may be subject to recoupment.
4. You have the right to military counsel. I have made an appointment for you with the Area Defense Counsel. Report to 1430 Arnold Avenue at _____ hrs on TBD, for an appointment with _____. You may request, if reasonably available, another military counsel of your choosing. 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 within 3 workdays 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 on 4 MAY 04 at 10:15. You must report to the 89th Medical Group for the examination. Report to Physical Exams, Bldg 1075, Room Y05 prior to your appointment to pick up your DD Form 2697.

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 at the Area Defense Counsel's office.

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



Commander, 89th Medical Operations Squadron

Attachments:

1. ECI Form 9, 31 Mar 03
2. Commander Evaluation Memorandum for 1st Failure, 20 May 03
3. ECI Form 9, 12 Aug 03
4. Commander Evaluation Memorandum for 2nd Failure, 8 Dec 03
5. AF Form 623a, OJT Records Continuation Sheet, 25 Jun 02 to 4 Dec 03
6. Airman's receipt of notification memorandum