

**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%;"></div>	GRADE  AMN	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN  COUNSEL YES    No <input type="checkbox"/> <input checked="" type="checkbox"/>	PERSONAL APPEARANCE  NAME OF COUNSEL AND OR ORGANIZATION	X	RECORD REVIEW  ADDRESS AND OR ORGANIZATION OF COUNSEL
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MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
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ISSUES <b>A94.05</b>	INDEX NUMBER <b>A67.10</b>	EXHIBITS SUBMITTED TO THE BOARD <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:20px; text-align: center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align: center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align: center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align: center;">4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE HE</td></tr> </table>	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
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HEARING DATE <b>08 Mar 2007</b>	CASE NUMBER <b>FD-2006-00289</b>	
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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.

<b>INDORSEMENT</b>		<b>DATE: 3/9/2007</b>
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-2006-00289**

**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 his discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and four Records of Individual Counseling for misconduct. The misconduct included being late for duty, failure to obey a regulation, failure to complete Department of Defense Practical Evaluations, striking two senior airmen in the face, and making terroristic threats. The applicant indicated that the terroristic threat conviction had been expunged from his police records. Under AFI 36-3208, paragraph 5.51, airmen are subject to discharge for misconduct based on civilian conviction by civilian authorities when a punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-martial. 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Lackland AFB, TX on 13 Sep 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 21 Apr 81. Enlmt Age: 19 2/12. Disch Age: 21 4/12. Educ: HS DIPL. AFQT: N/A. A-42, E-43, G-50, M-33. PAFSC: 3E731 - Fire Protection Apprentice. DAS: 2 Feb 01.

b. Prior Sv: (1) AFRes 22 Jun 00 - 7 Aug 00 (1 month 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Aug 00 for 4 yrs. Svd: 02 Yrs 01 Mo 06 Das, all AMS.

b. Grade Status: Amn - 12 Mar 02 (Article 15, 12 Mar 02)  
A1C - 8 Dec 01  
Amn - 8 Feb 01

c. Time Lost: None.

d. Art 15's: (1) 12 Mar 02, Rhein-Main AB, Germany - Article 128. You, did, on or about 15 Feb 02, unlawfully strike SrA [redacted] in the nose with a closed fist. You did, on or about 15 Feb 02, unlawfully strike SrA [redacted] on the left side of his face with a closed fist. Reduction to Airman. Ten days extra duty (suspended). (No appeal) (No mitigation)

e. Additional: RIC, 20 FEB 02 - Failure to complete DOD Practical Evaluations.  
RIC, 19 FEB 02 - Late for duty.  
RIC, 16 DEC 01 - Failure to obey regulation.  
RIC, 03 MAR 01 - Late for duty.

f. CM: None.

g. Record of SV: 8 Aug 00 - 7 Apr 02 Rhein-Main AB 2 (Initial) REF

h. Awards & Decs: AFTR, NDSM, AFOUA W/1 OLC, AFOSLTR.

i. Stmt of Sv: TMS: (02) Yrs (02) Mos (22) Das  
TAMS: (02) Yrs (01) Mos (06) Das

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DEPARTMENT OF THE AIR FORCE  
86TH AIRLIFT WING (USAFE)

09 AUG 2002

MEMORANDUM FOR AMN: [redacted] 469 ABG

FROM: 469 ABG/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section H, paragraph 5.49, *Minor Disciplinary Infractions*, and paragraph 5.51, *Civilian Conviction*. 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 general.

2. My reasons for this action are:

a. On or about 3 Mar 01, you were late for duty. You received a Letter of Counseling on 3 Mar 01.

b. On or about 16 Dec 01, you failed to report for mandatory formation in violation of an operating instruction. You received a Letter of Counseling on 16 Dec 01.

c. On or about 7 Jan 02, you failed to complete DOD Practical Evaluations required for certification. You received a Letter of Counseling on 20 Feb 02.

d. On or about 16 Feb 02, you were late for duty. You received a Letter of Counseling on 19 Feb 02.

e. On or about 15 Feb 02, you unlawfully struck Senior Airman [redacted] in the nose with a closed fist.

f. On or about 15 Feb 02, you unlawfully struck Senior Airman [redacted] on the left side of his face with a closed fist.

For the actions in 2e-f, you received nonjudicial punishment on 12 Mar 02. Punishment consisted of a reduction to the grade of Airman and 10 days extra duty suspended.



c. On or about 1 May 02, you made terroristic threats. For these actions, you were tried by a civilian court on 3 May 02 in Harris County, Texas. You pled guilty to the offense and were convicted. You were fined \$200 and incarcerated for 4 days in La Porte, Texas.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The Commander exercising SPCM 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 a telephonic appointment for you to consult Capt. [redacted] Area Defense Counsel, Ramstein AB, DSN 480-2182, at 1400 on 12 Aug 02. 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 14 Aug 02 (3 duty days) 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 SSgt [redacted] Physical Exams in the Rhein-Main AB Clinic, Bldg 176, at 0915 on 13 Aug 02, for the examination.

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 or you may access the publication on the Air Force Publication website at <http://afpubs.hq.af.mil/pubfiles/af/36/afi36-3208/afi36-3208.pdf>.

[redacted]

Group Section Commander

Attachments:

1. Letter of Counseling, dated 3 Mar 01
2. Letter of Counseling, dated 16 Dec 01
3. Letter of Counseling, dated 19 Feb 02
4. Letter of Counseling, dated 20 Feb 02
5. Article 15, dated 12 Mar 02

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6. Security Forces Police Report, dated 16 Feb 02
7. Court Documents from Harris County, dated 9 Jul 02
8. Harris County Police Report, dated 22 May 02
9. Receipt of Notification Memorandum
10. Airman's Statement
11. Recoupment Statement