

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [] | GRADE AMN | 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 | UOTHC | OTHER | DENY |
| [] | | | | | X |
| [] | | | | | X |
| [] | | | | | X |
| [] | | | | | X |
| [] | | | | | X |

| ISSUES A94.05 A01.51 | INDEX NUMBER A67.10 | <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width:5%; padding: 5px; text-align: center;">1</td> <td style="padding: 5px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 5px; text-align: center;">2</td> <td style="padding: 5px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 5px; text-align: center;">3</td> <td style="padding: 5px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 5px; text-align: center;">4</td> <td style="padding: 5px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td style="padding: 5px;"></td> <td style="padding: 5px;">TAPE RECORDING OF PERSONAL APPEARANCE HE</td> </tr> </tbody> </table> | 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 |
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| HEARING DATE 10 May 2007 | CASE NUMBER FD-2006-00417 | |
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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.

| | |
|---|--|
| [] INDORSEMENT | DATE: 5/31/2007 |
| 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 and that the justification for his misconduct was not considered when command issued the Article 15 and service characterization. The record indicates the applicant received two Article 15s for making false official statements on three separation occasions to two senior noncommissioned officers regarding taking unauthorized photos in a deployed AOR and failing to report to his place of duty as the time prescribed. He had additional misconduct and was administratively disciplined with a Letter of Reprimand for failing to report to mandatory physical training session and for making a false official statement. He was placed on the control roster for continued failure to follow rules/regulations and for making false official statements. The Board found no evidence to substantiate any impropriety or inequity. The Board concluded that characterization of the discharge received by the applicant 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 Davis-Monthan AFB, AZ on 5 Jun 06 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 13 Sep 84. Enlmt Age: 18 0/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-63, E-75, G-72, M-73. PAFSC: 2F051 - Fuels Journeyman. DAS: 27 Jun 03.

b. Prior Sv: (1) AFRes 24 Sep 02 - 03 Mar 03 (5 months 3 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Mar 03 for 6 years. Svd: 03 Yrs 03 Mo 02 Das, all AMS.

b. Grade Status: Amn - 08 May 06 (Article 15, 8 May 06)
A1C - 18 Apr 03

(Examiners Note: Two different Promotion orders to SrA are in his records, but no evidence he was ever officially promoted, per MILPDS.)

c. Time Lost: None.

d. Art 15's: (1) 08 May 06, Davis-Monthan AFB, AZ - Article 86. You, did, on or about 2 Apr 06, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 4857. Reduction to Amn. (No appeal) (No mitigation)

(2) 23 Feb 05, Davis-Monthan AFB, AZ - Article 107. You, did, at or near Balad AB, Iraq, on or about 6 Feb 05, with intent to deceive, make to MSgt [REDACTED], an official statement, to wit: I took the pictures and used a timer to take them, or words to that effect, which statement was totally false, and was then known by you to be so false. You, did, at or near Balad AB, Iraq, on or about 7 Feb 05, with intent to deceive, make to CMSgt [REDACTED], an official statement, to wit: I took the picture of myself by using the auto-timer function on my camera, or words to that effect, which statement was totally false, and was then known by you to be so false. You, did, at or near Balad AB, Iraq, on or about 11 Feb 05, with intent to deceive, make to MSgt [REDACTED], an official statement, to wit: "[REDACTED]" then pushed

SrA [redacted] away from him and said 'I am not in the mood'. SrA [redacted] stepped back with his hands raised while [redacted] was still pointing at him. SrA [redacted] said 'get your finger out of my face' and A1C [redacted] continued to point, then SrA [redacted] hit A1C [redacted] hand and then struck him in the face. [redacted] said 'it's like that huh? Don't worry you'll get yours.'" which statement was totally false, and was then known by you to be so false. Suspended reduction to Amn. Fifteen days extra duty and a reprimand. (No appeal) (No mitigation)

- e. Additional: CR, 13 MAR 06 - Continued failure to follow rules/regulations and false official statements.
LOR/UIF, 08 MAR 06 - Failure to go and false official statement.
- f. CM: None.
- g. Record of SV: 04 Mar 03 - 03 Nov 04 Davis-Monthan AFB 5 (Initial)
04 Nov 04 - 10 Jul 05 Davis-Monthan AFB 3 (CRO)REF
- h. Awards & Decs: NDSM, AFTR, AFOUA, GSOTSM, ICM, AFESM, MUA.
- i. Stmt of Sv: TMS: (03) Yrs (08) Mos (10) Das
TAMS: (03) Yrs (03) Mos (02) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 11 Oct 06.
(Change Discharge to Honorable.)

Issue 1: ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. DD Form 214.

4JAN07/day

OCT 24 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.)

OMB No. 0704-0004
OMB approval 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 Services 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 d. SOCIAL SECURITY NUMBER

E-2

2. DATE OF DISCHARGE OR SEPARATION *(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)* **4. DISCHARGE CHARACTERIZATION RECEIVED** *(X one)* **5. BOARD ACTION REQUESTED** *(X one)*

| | | |
|----------|--|---|
| 20060605 | <input checked="" type="checkbox"/> HONORABLE | <input checked="" type="checkbox"/> CHANGE TO HONORABLE |
| | <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS | CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS |
| | UNDER OTHER THAN HONORABLE CONDITIONS | CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> |
| | 3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION | CHANGE NARRATIVE REASON FOR SEPARATION TO: |
| | BAD CONDUCT <i>(Special court-martial only)</i> | |
| | UNCHARACTERIZED | |
| | OTHER <i>(Explain)</i> | |

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST *(Continue in Item 14. See instructions on Page 3.)* I KNOW THAT MAKING A FALSE OFFICIAL STATEMENT AND FAILURE TO REPORT TO DUTY ON TIME ARE IN NO WAY HONORABLE, HOWEVER, I FEEL THAT MY JUSTIFICATION FOR THE TWO WERE NOT CONSIDERED WHEN ISSUING THE ARTICLE 15'S AND THE SERVICE CHARACTERIZATION OF "GENERAL UNDER HONORABLE CONDITIONS." WHEN I MADE A FALSE OFFICIAL STATEMENT FOR WHICH I RECEIVED AN ARTICLE 15

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.)*

CASE NUMBER
(Do not write in this space.)

b. DATE SIGNED - REQUIRED *(YYYYMMDD)*

FD 2006-00417

20061011

14. CONTINUATION OF ITEM 6, ISSUES (If applicable) FOR, I WAS TRYING TO COVER FOR A FELLOW AIRMAN AND TAKE FULL RESPONSIBILITY RATHER THEN INVOLVE HIM. I FELT THAT I WAS THE ONE TO BRING NEGATIVE ATTENTION UPON US, AND DIDN'T SEE A REASON FOR BOTH OF US TO GET PUNISHED FOR MY POOR JUDGEMENT. AS FOR THE ARTICLE IS I RECEIVED FOR "FAILURE TO GO", I WAS IN THE MIDST OF MOVING AND WAS STAYING AT A FRIENDS/SUPERVISORS HOUSE. WE HAD GONE OUT THE NIGHT BEFORE, BUT WERE IN BED AT A REASONABLE TIME. WE WERE EXHAUSTED FROM WORKING LONG HOURS DURING AN EXERCISE AND OVERSLEPT. I KNOW THAT I SHOWED POOR JUDGEMENT IN GOING OUT WHEN I WAS SO TIRED BUT I FEEL THAT WAS THE ONLY INFORMATION THAT WAS FOCUSED ON. I FEEL, AS DID MANY OF MY SUPERVISORS, THAT I EXCEEDED MANY OF THE STANDARDS OF A "GENERAL" AIRMAN, THEREFOR I ASK THAT MY CHARACTERIZATION BE UPGRADED TO HONORABLE.

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

16. REMARKS (If applicable)

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
355TH LOGISTICS READINESS SQUADRON (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

MAY 16 2006

MEMORANDUM FOR AMN: [REDACTED] 355 LRS

FROM: 355 LRS/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 an Under Honorable Conditions (General) discharge.
2. My reasons for this action are:
 - a. On or about 6, 7, and 11 Feb 05, you made a false official statements. As a result, you were punished under Article 15, UCMJ, on 19 Feb 05 (Tab A).
 - b. On 24 Feb 06, you failed to report to your place of duty and also made a false official statement about attending your mandatory physical training session. As a result, you received a Letter of Reprimand (LOR) on 8 Mar 06 (Tab B). Which established an Unfavorable Information File (UIF) on 13 Mar 06.
 - c. On 2 Apr 06, you failed to report to your place of duty at the time prescribed. As a result, you were punished under Article 15, UCMJ, on 4 May 06, consisting of reduction to the grade of Amn with a new date of rank of 8 May 06 (Tab C).
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 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).
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 Captain: [REDACTED] at AFLSA/ADC, 228-5664, on 18 May 06, at 1000 hours. 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 22 May 06 1420 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 PHA Clinic, 355th Medical Group on 19 May, at 0945 hours for the examination.

8. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, building 2300, room 114, at 1530 hours on 19 May 06 for the outprocessing briefing. If you have questions, please call 228-5326.

9. 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 Area Defense Counsel's office.

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

[Redacted Signature Box]

Commander

Attachments:

1. Supporting Documents:

- a. Article 15, UCMJ, 19 Feb 05, (3 pgs) Member's Response (1 pg)
- b. LOR, 8 Mar 06 (2 pgs), Member's Response (1 pg), UIF (2 pgs)
- c. Article 15, UCMJ, 4 May 06, (3 pgs)

2. Receipt of Notification Memorandum