

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

SRA

TYPE GEN

PERSONAL APPEARANCE

X

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

A92.01

A94.05

A92.05

INDEX NUMBER

A67.10

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

24 May 2007

CASE NUMBER

FD-2007-00020

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.

ENDORSEMENT

DATE: 5/29/2007

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

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2007-00020

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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and three Letters of Reprimand for misconduct. The applicant received an Article 15 for unlawfully striking a child under the age of 16 on the leg and buttocks with a belt. He was punished with a forfeiture of pay and 30 days of extra duty. He had additional misconduct and was administratively disciplined for a civilian charge of violating a protective order, puncturing his wife's tires, disturbing the peace, domestic violence, and failure to pass his QC evaluation which resulted in him losing his Response Force Leader Certification. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the applicant's 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 accomplishments. 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 SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Malmstrom AFB, MT on 1 Dec 05 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 28 Jun 84. Enlmt Age: 17 2/12. Disch Age: 21 5/12. Educ: HS DIPL. AFQT: N/A. A-34, E-36, G-49, M-41. PAFSC: 3P031 - Security Forces Apprentice. DAS: 28 Jul 02.

b. Prior Sv: (1) AFRes 27 Sep 01 - 26 Feb 02 (5 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 27 Feb 02 for 4 yrs. Svd: 03 Yrs 09 Mo 03 Das, all AMS.

b. Grade Status: SrA - 27 Jun 04

c. Time Lost: None.

d. Art 15's: (1) 23 Aug 05, Malmstrom AFB, MT - Article 128. You, did, at or near Great Falls, Montana, on or about 23 May 05, unlawfully strike a child under the age of 16 years, on the right leg and buttocks with a belt. Forfeiture of \$893.00 pay per month for 2 months. That portion in excess of \$100.00 pay per month for 2 months suspended. Thirty days extra duty (suspended). Reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 01 NOV 05 - Cited by civil police for puncturing wife's tires. Arrested and cited by civil police for violating an imposed protective order and throwing a rock at his wife's car, causing damage. Arrested by civil police for a second time in three days for violating a protective order.

LOR, 03 OCT 05 - Cited by civil police for disturbing the peace. Again involved in a domestic disturbance on 17 Sep 05 after he kicked in the side of his wife's car door and threatened to kill her. Additionally, civil police informed the First Sergeant that individual had been involved in at least three other incidents within the past year which required their

involvement.

LOR, 30 MAR 05 - Failed to pass his QC evaluation, which resulted in his losing his Response Force Leader Certification.

f. CM: None.

g. Record of SV: 27 Feb 02 - 15 Jul 03 Malmstrom AFB 5 (HAF Dir)
16 Jul 03 - 15 Jul 04 Malmstrom AFB 5 (Annual)
16 Jul 04 - 15 Jul 05 Malmstrom AFB 3 (Annual)

h. Awards & Decs: NDSM, GWOTSM, AFOUA W/4 OLCS, AFTR.

i. Stmt of Sv: TMS: (04) Yrs (02) Mos (05) Das
TAMS: (03) Yrs (09) Mos (05) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 09 Jan 07.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Three Character References.
3. Three Enlisted Performance Reports (Page 1 only).
4. Ancillary Training Report.
5. Four Letters of Appreciation.
6. Certificate of Award.
7. Certificate of Appreciation.
8. Certificate of Recognition.
9. Training Certificate.

01MAR07/ia

12 JAN 2007

FD 2007-00020

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES <i>(Please read instructions on Pages 3 and 4 BEFORE completing this application.)</i>		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 <i>(The person whose discharge is to be reviewed).</i> PLEASE PRINT OR TYPE INFORMATION.		
a. BRANCH OF SERVICE <i>(X one)</i>		b. NAME <i>(Last, First, Middle Initial)</i>
ARMY <input type="checkbox"/> MARINE CORPS <input type="checkbox"/> NAVY <input checked="" type="checkbox"/> AIR FORCE <input type="checkbox"/> COAST GUARD <input type="checkbox"/>		c. GRADE/RANK AT DISCHARGE E-4 SRA
d. SOCIAL SECURITY NUMBER _____		2. DATE OF DISCHARGE OR SEPARATION <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i> 20051201
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 741		4. DISCHARGE CHARACTERIZATION RECEIVED <i>(X one)</i>
HONORABLE <input type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS <input checked="" type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS <input type="checkbox"/> BAD CONDUCT <i>(Special court-martial only)</i> <input type="checkbox"/> UNCHARACTERIZED <input type="checkbox"/> OTHER <i>(Explain)</i> _____		5. BOARD ACTION REQUESTED <i>(X one)</i>
CHANGE TO HONORABLE <input checked="" type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS <input type="checkbox"/> CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> <input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO: _____		6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST <i>(Continue in Item 14. See instructions on Page 3.)</i> I AM REQUESTING AN UPGRADE FOR FULL HONORABLE BECAUSE OF THE FOLLOWING FACTORS: 1) EARLY SEPARATION ONLY 2 MONTHS PRIOR TO NORMAL EFFECTIVE DUTY SERVICE DISCHARGE DATE WHICH WAS FEB 26, 2006 2) EXCELLENT DUTY PERFORMANCE 3) UPHELD SERVICE AND LEADERSHIP STANDARDS FOR MY AFSC-3P051 SECURITY PERIOD
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: <i>(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)</i> ATTACHMENTS ON BACK → SEE REVERSE		
9. TYPE OF REVIEW REQUESTED <i>(X one)</i>		
<input checked="" type="checkbox"/> CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD.		
<input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.		
<input type="checkbox"/> I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> _____ <i>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</i>		
10. a. COUNSEL/REPRESENTATIVE <i>(If any) NAME (Last, First, Middle Initial) AND ADDRESS</i> <i>(See Item 10 of the instructions about counsel/representative.)</i> N/A		b. TELEPHONE NUMBER <i>(Include Area Code)</i> _____ c. E-MAIL _____ d. FAX NUMBER <i>(Include Area Code)</i> _____
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 <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> NEXT OF KIN <input type="checkbox"/> LEGAL REPRESENTATIVE <input type="checkbox"/> OTHER <i>(Specify)</i> _____		
12. a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE <i>(Forward notification of any changes in address.)</i>		b. TELEPHONE NUMBER <i>(Include Area Code)</i> _____ c. E-MAIL _____ d. FAX NUMBER <i>(Include Area Code)</i> _____
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. <i>(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.)</i>		CASE NUMBER <i>(Do not write in this space.)</i> FD 2007-00020
a. SIGNATURE - REQUIRED <i>(Applicant or person in Item 11 above)</i> _____		b. DATE SIGNED - REQUIRED <i>(YYYYMMDD)</i> 20070109

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

THE ISSUES THAT I DID HAVE WERE DUE TO A BAD MARRIAGE, & OFF DUTY ISSUES WHICH WERE DOMESTIC COMPLAINTS, INVOLVING MY EX-WIFE. MY ON DUTY SERVICE & PERFORMANCE WAS WELL ABOVE SATISFACTORY. WHILE SERVING MY COUNTRY I VOLUNTEERED TO DO COMMUNITY SERVICE, I ENLISTED INTO THE AIR FORCE AT THE YOUNG AGE OF 17 WITH BOTH PARENTS CONSENT, AND I WAS RESPONSIBLE FOR LEADING THREE OTHER AIR FORCE COPS IN THE MISSILE FIELD WHILE ON DUTY.

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

- 1) LETTERS OF APPRECIATIONS (FROM COMMANDERS)
- 2) EPR FORMS (ENLISTED PERFORMANCE REPORT)
- 3) MEMORANDUS FOR DISCHARGE (BY FLIGHT SGTs & LEADERSHIP SUPERVISORS)
- 4) AUXILIARY TRAINING REPORT

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
HEADQUARTERS 341ST SPACE WING (AFSPC)

FD 2007-00070
09 NOV 2005

9 NOV 05

MEMORANDUM FOR 741 MSFS (ATTN: SrA:)

FROM: 741 MSFS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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 could be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general, under honorable conditions.

2. My reasons for this action are:

a. On 30 Mar 05, you failed to pass your annual QC evaluation, which resulted in your losing your Response Force Leader certification. As a result of this misconduct, you received a Letter of Reprimand (LOR), dated 30 Mar 05.

b. On or about 23 May 05, you unlawfully struck a child under the age of 16 on the right leg and buttocks with a belt. As a result of this misconduct, you received an Article 15, dated 23 Aug 05, with a punishment of forfeiture of \$893 per month for two months (\$793 per month for two months suspended), 30 days extra duty (suspended), and a reprimand.

c. On 04 Sep 05, you were cited by the Great Falls Police Department (GFPD) for disturbing the peace following an argument with your wife. On 17 Sep 05, you were again involved in a domestic disturbance after you kicked in the side of your wife's car and allegedly threatened to kill her. Additionally, the GFPD informed your First Sergeant that you had been involved in at least three other incidents within the past year which required their involvement. As a result of this misconduct, you received an LOR, dated 03 Oct 05.

d. On 07 Oct 05, you were cited by the GFPD for puncturing the tires on your wife's car, causing less than \$1,000 in damage. On 13 Oct 04, you were arrested and cited by the GFPD for violating a protective order and for throwing a rock at your wife's car, causing less than \$1,000 in damage. On 15 Oct 05, you were arrested again by the GFPD for violating a protective order. As a result of this misconduct, you received an LOR, dated 01 Nov 05.

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 or retained in the Air Force and, if

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Guardians of the High Frontier

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 an appointment for you to consult the Area Defense Counsel, x4723, 7015 Goddard Drive, Bldg 145, Room 144 on 9 NOV 05 at 1330. 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 COB 16 NOV 05 (3 duty days) unless you request and receive an extension for good cause shown. I will send all submitted statements 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 341st Medical Group Force Health Management Section, x4405, at 1500 hours on 9 NOV 05 for the examination. You **MUST** be in uniform for this appointment. If you wear eyeglasses, you must also bring them to this appointment.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, *Administrative Separation of Airmen*, is available for your use at your orderly room.

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

Section Commander

Attachments:

1. Supporting documents:
 - a. LOR dated 30 Mar 05
 - b. Article 15 dated 23 Aug 05
 - c. LOR dated 03 Oct 05
 - d. LOR dated 01 Nov 05
 - e. Documents in Attachment 6
2. Airman's Receipt of Notification Memorandum