

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	UOTH	OTHER	DENY
									X
									X
									X
									X
									X
ISSUES		A94.05			INDEX NUMBER		A67.30		
					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		CASE NUMBER							
10 May 2007		FD-2007-00024							
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.									
INDORSEMENT					DATE: 5/15/2007				
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-2007-00024

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 based on one incident. The records indicated the applicant received a Letter of Reprimand and a Record of Individual Counseling for misconduct. The applicant received a Letter of Reprimand for a civilian arrest for possessing a loaded firearm in a moving vehicle while intoxicated; firing the firearm through the open window of the vehicle; rude and combative behavior towards a police officer; threatened, spit at, physically fought with the police officer; threatened violence against the officer's family; and threatened to harm the sister of a co-worker trying to help. The applicant was also administratively disciplined for repeatedly being late for duty. 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.

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 Eielson AFB, AK on 23 Sep 05 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 Jun 84. Enlmt Age: 17 3/12. Disch Age: 21 2/12. Educ: HS DIPL. AFQT: N/A. A-43, E-66, G-55, M-81. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 3 Nov 04.

b. Prior Sv: (1) AFRes 2 Oct 01 - 7 Jan 02 (3 months 6 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Jan 02 for 6 yrs. Extended 25 Aug 04 for 10 months. Svd: 03 Yrs 08 Mo 16 Das, of which AMS is 03 Yrs 07 months 22 days (excludes 24 days lost time).

b. Grade Status: SrA - 16 Jul 04
A1C - 22 Feb 02

c. Time Lost: 5 Jul 05 thru 29 Jul 05 (24 days).

d. Art 15's: None.

e. Additional: LOR/UIF, 16 AUG 05 - Civil arrest for possessing a loaded firearm in a moving passenger vehicle while intoxicated; firing the firearm through the open window of the moving vehicle; rude and combative to Alaska State Trooper; threatened, spit at, physically fought with trooper, and became violent enough to threaten to harm the trooper's family. Threatened to harm the sister of a co-worker trying to help.

CR, 16 Aug 05 - Patter of Misconduct.

RIC, 09 MAY 05 - Late for work.

f. CM: None.

g. Record of SV: 08 Jan 02 - 07 Sep 03 Cannon AFB 4 (Initial)
08 Sep 03 - 07 Sep 04 Cannon AFB 5 (Annual)
08 Sep 04 - 18 Aug 05 Eielson AFB 1 (Cmdr Dir) REF

h. Awards & Decs: AFEM W/GB, ARMFEM, NDSM, GWOTSM, AFOUA W/VALOR, AFTR.

i. Stmt of Sv: TMS: (03) Yrs (10) Mos (28) Das
TAMS: (03) Yrs (07) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 12 Jan 07.
(Change Discharge to Honorable)

Issue 1: I don't feel that my entire military career should be characterized for the actions of just one day. It happend (sic) one week after my 21st birthday and I was drunk. Since the incident I have stayed out of trouble. In addition I am currently attending College and I have good credit.

ATCH

None.

07MAR07/ia



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD7007-00024

30 AUG 05

MEMORANDUM FOR SENIOR AIRMAN: [REDACTED]
354 AMXS, PACAF

FROM: 354 AMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Commission of a Serious Offense. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.52.3. If my recommendation is approved, your service will be characterized as either Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions (UOTHC). I am recommending that your service be characterized as Under Honorable Conditions (General).

2. My reason for this action is based on the following:

a. On or about 3 July 2005, you possessed a loaded firearm in a moving passenger vehicle while intoxicated. You then proceeded to fire that weapon out of the window of that vehicle, creating a grave risk of death or injury to people and property in the area. When an Alaska State Trooper responded, you were not only still very intoxicated, but you were also extremely rude and combative. In your drunken rant, you threatened, spit at, and physically fought with the trooper. Additionally, while you were being detained, you became belligerent and verbally threatened a co-worker who was trying to help you secure your vehicle. For your behavior, you received a Letter of Reprimand (LOR), dtd 16 Aug 05 (Atch 1), which was placed in your Unfavorable Information File (UIF), dtd 18 Aug 05 (Atch 2). I have also attached a copy of a civilian criminal Judgment which covers some, but not all, of your conduct that day (Atch 3).

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 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 an appointment for you to consult with the Area Defense Counsel's Office, Building 2610, Room 160, Eielson AFB, Alaska, on 30 Aug 05 at 1500. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

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 (3 duty days) 6 Sept 05 unless you request and receive an extension for good cause shown. I will send them to the separation authority.
6. You have been scheduled for a medical examination. You must report to the Physical Examination Section, 354th Medical Group, Building 3349, at 0900 on 31 Aug for the examination.
7. 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.
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 your Area Defense Counsel's office.
9. Execute the attached acknowledgment and return it to me immediately.

Commander

Attachments:

1. LOR, dtd 16 Aug 05 (4 pgs)
2. AF Form 1137, dtd 18 Aug 05 (1 pg)
3. Judgment, dtd 4 Aug 05 (2 pgs)
4. RIC, dtd 19 May, 05 (2 pgs)