

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)			GRADE		AFSN/SSAN	
TYPE GEN		PERSONAL APPEARANCE	X	RECORD REVIEW		
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	No					
	X					

VOTE OF THE BOARD					
	HON	GEN	UOHC	OTHER	DENY
	X*+				
	X*+				
	X*+				
	X*+				
	X*+				

ISSUES A94.06	INDEX NUMBER A62.00	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 HEARING

HEARING DATE 21 Jan 2011	CASE NUMBER FD-2009-00447	
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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.

* CHANGE RE CODE

+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY

SAF/MRBR
550 C STREET WEST, SUITE 100
RANDOLPH AFB, TX 78150-4402

AIR FORCE DISCHARGE REVIEW BOARD
1535 COMMAND DR, EE WING, 3RD FLOOR
ANDREWS AFB, MD 20762-7001

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2009-00447

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined and requests that the review be completed based on the available service record.

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

FINDING: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE: Applicant received a General discharge-Fraudulent Entry into Military Service

The applicant contends the narrative reason for his discharge is inequitable because he never lied. After a thorough and complete consideration of the information provided by the applicant and contained in the records, the DRB concluded there was sufficient evidence to substantiate upgrading the discharge. Specifically, the Board found the reason and authority for the discharge was too harsh. In the discharge notification memorandum, the commander states the applicant admitted to pre-existing lower back pain that he denied at MEPS. After a complete review of the applicants military medical record the board found that the member admitted to having hurt his back after being tackled playing football in early 2000, but thought the pain had resolved. His specific injury was detected by x-ray 7 December 2000, five months after entering the Air Force. The board opined that although the applicant's injury occurred prior to entering the Air Force, he did not intentionally lie to MEPS personnel and was honest when questioned by Air Force medical personnel after coming on active duty.

CONCLUSION: 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 the applicant was provided full administrative due process.

However, in view of the foregoing findings, the Board concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge, the reason for the discharge is more accurately described as Secretarial Authority, and the reenlistment code changed to 3K under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL 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 Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. 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.

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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	<input checked="" type="checkbox"/> 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)
08 Mar 01	<input checked="" type="checkbox"/> HONORABLE	<input checked="" type="checkbox"/> CHANGE TO HONORABLE
	<input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED (Not applicable for Air Force)
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION Lynchburg AFB TX	<input type="checkbox"/> BAD CONDUCT (Special court-martial only)	<input checked="" type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION TO:
	<input type="checkbox"/> UNCHARACTERIZED	
	<input type="checkbox"/> 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.)

I received a Narrative Reason stating (Fraudulent Entry into Military Service). I am currently trying to get a Federal Job. I feel that I never lied. When I signed my paper work in 2001, I just lost my father. I didn't look over my discharge papers.

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)

<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 (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
<input type="checkbox"/> 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.
<input type="checkbox"/> 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.

<input type="checkbox"/> SPOUSE	<input type="checkbox"/> WIDOW	<input type="checkbox"/> WIDOWER	<input type="checkbox"/> NEXT OF KIN	<input type="checkbox"/> LEGAL REPRESENTATIVE	<input type="checkbox"/> OTHER (Specify)
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12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE	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 288, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above)	b. DATE SIGNED - REQUIRED (YYYYMMDD)	CASE NUMBER (Do not write in this space.) FD2009-00447
	2009 07 16	

**DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD**

AFDRB BRIEF							
NAME (Last, First, MI):			SSN:		DOCKET # FD-2009-00447		COMPONENT: USAF
TYPE OF DISCHARGE: GENERAL		DISCHARGE FROM: LACKLAND AFB, TX		DISCHARGE DATE: 08 MAR 01		APPEALS FOR: UPGRADE DISCHARGE, CHANGE REASON FOR DISCHARGE, & R.E. CODE	
DOB/ ENLMT AGE: 13 OCT 81 18		DISCH AGE: 19		FORMER: AMN	HGH: AMN	B. CURRENT DOR: 25 JAN 01	
						C. TIME LOST: NONE	
AFSC: 4F011 - AEROMEDICAL HELPER				DEP DT: 22 OCT 99		ASVAB SCORES: A: 57 E: 62 G: 50 M: 41	
D. ART 15 / VAC: NONE		D. LOR, LOA, RIC, LOC: NONE		E. SCM / SPCM / GCM: NONE		ADDITIONAL: (IE. CIVIL CONV, CDC) NONE	
F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT) : NONE							
G. AWARDS & DECS: AFTR							
EAD: 25 JUL 00		DAS: 11 SEP 00		H. TMS: 1 YRS 4 MOS 15 DAS		TAMS: 0 YRS 7 MOS 11 DAS	
APPLN (DD FORM 293) DTD: 16 JUL 09		DT/ INITIALS: 31AUG10/JLL		NPA/PA: NPA		BOARD REGION:	
RECORDS :		MPR: YES	ARMS: NO	STR: YES	ISSUES: YES		ATTACHMENTS: NO
AUTH FOR DISCHARGE : AFI 36-3208, PARA 5.15 (FRAUDULENT ENTRY INTO MILITARY SERVICE)							
ART 15; VAC; SCM; SPMC; GCM; ADDITIONAL:							
EXAMINER'S NOTE: NOTIFICATION MEMO DATED 27 FEB 01, PARA 2, CITES REASON FOR DISCHARGE ; AS ADMITTING TO HAVE A PRE-EXISTENT LOWER BACK PAIN AND THAT YOU DENIED IT AT MEPS. STATEMENT CREATED A BASIS FOR A FRADULENT ENTRY INTO MILITARY SERVICE DISCHARGE.							
NOTES:							

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Level 1 and AFB TX	<input type="checkbox"/> UNCHARACTERIZED	
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	2009 07 16	FD2009-00447



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

27 FEB 2001

MEMORANDUM FOR AMN

344 TRS

FROM: 344 TRS/DOM

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Fraudulent Entry discharge. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.15. If my recommendation is approved, your service will be characterized as **Honorable or General**. I am recommending that your service be characterized as **Under Honorable Conditions (General)**.
2. My reasons for this action are: On or about 30 Jan 01, you were seen at Wilford Hall Medical Center for lower back pain. You admitted to having pre-existent lower back pain and that you denied it at MEPS.
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 an appointment for you to consult the Area Defense Counsel (ADC) at Bldg 1000 2nd floor on _____ at _____. 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 (allow 3 workdays) 2 MAR 01 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. 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 Orderly Room, Bldg 156.

8. You have been scheduled for a medical examination. You must report to Bldg 6612, Room 502, Monday - Friday between the hours of 1300 - 1500 with your medical, immunization, and dental records for the examination.

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

Commander, Military Training Flight

Attachment:

1. Automated Version of SF 600 dated 16 Jan 01
2. 2 Chronological Record of Medical Care dated 16 Jan 01, 30 Jan 01
3. WHMC Form 2967 dated 24 Jan 01
4. Applicant Medical Prescreening Form dated 21 Oct 99
5. Report of Medical History dated 21 Oct 99

01 MAR 2001

MEMORANDUM FOR 37 TRG/CC

FROM: 37 TRW/JAM

SUBJECT: Legal Review of Administrative Discharge Under AFPD 36-32 and AFI 36-3208,
Para 5.15

1. Discharge AMN from the United States Air Force with an **Under Honorable Conditions (General) Discharge**. This service characterization is appropriate since significant negative aspects of his misconduct outweigh the positive aspects of his military record. I agree with the commander, 37th Training Group, that probation and rehabilitation is not appropriate.

2. Authority for this action is AFPD 36-32 and AFI 36-3208, Paragraph 5.15, **Fraudulent Entry**.

Attachment:
Case File

Assistant Staff Judge Advocate

Attorney Work Product

This is a privileged document. It will not be released in whole nor in part without the approval of the Staff Judge Advocate.