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|---|----|--|--|---|-----|-------|-------|------|
| | | PERSONAL APPEARANCE | | X RECORD REVIEW | | | | |
| | | NAME OF COUNSEL AND OR ORGANIZATION | | ADDRESS AND OR ORGANIZATION OF COUNSEL | | | | |
| YES | NO | | | | | | | |
| | X | | | | | | | |
| | | MEMBERS SITTING | | HON | GEN | UOTBC | OTHER | DENY |
| | | [REDACTED] | | | | | | X |
| | | [REDACTED] | | | | | | X |
| | | [REDACTED] | | | | | | X |
| | | [REDACTED] | | | | | | X |
| | | [REDACTED] | | | | | | X |
| ISSUES A01.00, A95.00 | | INDEX NUMBER A67.10 | | 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 | | | | |
| BEARING DATE 01 0223 | | CASE NUMBER FD01-00014 | | | | | | |
| REMARKS Case heard at 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. | | | | | | | | |
| SIGNATURE | | SIGNATURE | | | | | | |
| TO: SAF/MIBR 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, 3 RD 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 the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The DRB finds that the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none. The records indicated the applicant received an Article 15, two Letters of Reprimand and a Letter of Counseling for misconduct. The misconduct included being found sleeping on post as a sentinel while on duty, and on two separate occasions failing to maintain a properly clean and pressed uniform. 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 A1C)

ATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 99/12/21 UP AFI 36-3208, 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable

ACKGROUND:

a. DOB: 80/01/15. Enlmt Age: 17 9/12. Disch Age: 19 11/12. Educ:HS DIPL. N/A. A-39, E-71, G-50, M-74. PAFSC: 3P031 - Security Apprentice. 39/06/15.

b. Prior Sv: AFRes 97/10/28 - 98/10/06 (11 months 9 days) (Inactive).

SRVICE UNDER REVIEW:

a. Enld as AB 98/10/07 for 4 yrs. Svd: 1 Yrs 2 Mo 15 Das, all AMS.

b. Grade Status: A1C - 98/11/21
AMN -, Unknown

c. Time Lost: none.

d. Art 15's: (1) 99/11/19, Keesler AFB, MS - Article 113. You, o/a 6 Nov 99, being on post as a sentinel at post Security 2, flightline restricted area Keesler AFB, MS, were found sleeping upon your post. Rdn to Amn (susp til 18 May 00), 14 days restriction, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 13 NOV 99 - Dereliction of duty.
LOR, 07 OCT 99 - Dress and Appearance violation.
LOC, 07 OCT 99 - Dress and Appearance violation.

f. CM: none.

g. Record of SV: none.
(Discharged from Keesler AFB)

h. Awards & Decs: AFTR, AFOUA W/1 DEV.

i. Stmt of Sv: TMS: (2) Yrs (1) Mos (24) Das
TAMS: (1) Yrs (2) Mos (15) Das

ASIS ADVANCED FOR REVIEW: Apnl (DD Fm 293) dtd 00/11/05.
Change Discharge to Honorable)

FD01-00014



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

MEMORANDUM FOR 81 TRW/CC

1999

FROM: 81 TRW/JAJ
500 Fisher Street Rm 227
Keesler AFB, MS 39534-2553

SUBJECT: Legal Review, Discharge [REDACTED]

1. **ACTION:** On 13 Dec 99, 81 SFS/CC recommended that [REDACTED] (hereafter referred to as "Respondent") be administratively separated for misconduct with a general service characterization. The authority for this recommendation is AFI 36-3208, paragraph 5.49. Under paragraph 6.2.2, the respondent is not entitled to a board hearing.

2. **PERSONAL DATA:**

- a. Date and Term of Enlistment: 7 Oct 98, 6 years.
- b. Total Active Federal Military Service Date: 7 Oct 98.
- c. Performance Reports: None.

3. **EVIDENCE FOR THE GOVERNMENT:** On 13 Nov 99, Respondent failed to keep the SFCC aware of his location at all times, for which he received a Letter of Reprimand on 13 Nov 99. On or about 6 Nov 99, Respondent, being on post as a sentinel on the flightline, was found sleeping while on duty, for which he was punished under Article 15, UCMJ, with a reduction to Airman, a suspended reduction to Airman Basic, 14 days extra duty, and 14 days restriction to Keesler Air Force Base, on 19 Nov 99. On or about 7 Oct 99 and 28 Sep 99, Respondent failed to maintain a properly clean and pressed uniform, for which he received a Letter of Reprimand on 7 Oct 99.

4. **EVIDENCE FOR THE RESPONDENT:** This 19-year-oldairman is in his first enlistment. He has AQE scores as follows: A - 39, E - 71, G - 50, M - 74. Respondent consulted counsel and stated that he would submit matters on his own behalf, however, he never turned in any statements.

5. **DISCUSSION:**

- a. This file is legally sufficient to support a discharge under paragraph 5.49 for minor disciplinary infractions. Respondent's repeated misconduct demonstrates a lack of military bearing that has an adverse effect on the morale and discipline of a unit. The serious nature of the offense of sleeping on duty indicates that he is not capable of meeting required standards of conduct. Such traits reflect poorly upon the Respondent and the Air Force, particularly in his role as a member of security forces. Administrative separation is in the best interest of both parties.

ATTORNEY WORK PRODUCT

Do not release in whole or in part without the expressed permission of the Staff Judge Advocate.

b. 81 SFS/CC recommends a General Discharge and I agree.. The significant negative aspects of Respondent's service outweigh the positive aspects of his duty. A general service characterization is appropriate in this case.

c. 81 SFS/CC advises that Probation and Rehabilitation are not suitable in this case and I agree. Respondent has been given opportunities to conform his behavior to acceptable standards, yet has chosen not to comply. Further attempts at probation and rehabilitation would likely prove unsuccessful.

6. **OPTIONS:** As the Separation Authority, you have the following options:

a. If you determine the evidence does not support this separation action, direct that it be discontinued, and direct the respondent be retained in the Air Force.

b. If you determine this separation action has been brought under an inappropriate section of AFI 36-3208, direct reinitiation under a more appropriate section.

c. If you determine the evidence supports this separation action, approve the separation action and direct the respondent be given a general discharge, with or without probation and rehabilitation, for minor disciplinary infractions under the provisions of AFI 36-3208, paragraph **5.49**.

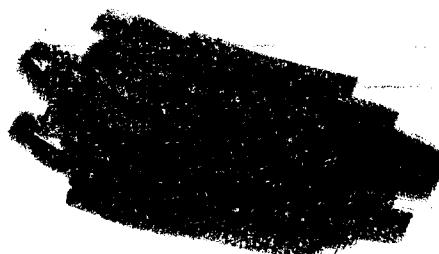
d. If you determine this separation action is supported by the evidence, but believe an honorable discharge is appropriate, make that recommendation and forward the file to 2 AF/CC for further disposition.

e. If you determine that an other than honorable conditions discharge is appropriate under paragraph **5.49**, direct a discharge board be convened, and forward the file to **81 SFS/CC** for processing.

7. **RECOMMENDATION:** That **you** approve Respondent's separation with a general service characterization, without probation and rehabilitation for minor disciplinary infractions, under the provisions of AFI 36-3208, Chapter 5, Section **H**, paragraph **5.49**.


NCOIC, Administrative Discharge Branch

I concur. I--



Attachment-Case File

ATTORNEY WORK PRODUCT

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DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

04 1000

MEMORANDUM FOR [REDACTED]

FROM: 81 SFS/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, Chapter 5, Section H, Paragraph 5.49. If my recommendation is approved, your discharge will be described as Honorable or General. I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. On 13 Nov 99, you failed to keep the SFCC aware of your location at all times, for which you received a Letter of Reprimand on 13 Nov 99. (Atch 1, Appendix A)

b. On or about 6 Nov 99, you, being on post as a sentinel on the flightline, were found sleeping while on duty, for which you were punished under Article 15, UCMJ, with a reduction to Airman, a suspended reduction to Airman Basic, 14 days extra duty, and 14 days restriction to Keesler Air Force Base, on 19 Nov 99. (Atch 1, Appendix B w/atchs)

c. On or about 7 Oct 99, you failed to maintain a properly clean and pressed uniform, for which you received a Letter of Reprimand on 7 Oct 99. (Atch 1, Appendix C)

d. On or about 28 Sep 99, you failed to maintain a properly clean and pressed uniform, for which you received a Letter of Counseling on 7 Oct 99. (Atch 1, Appendix D)

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 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. Any special pay, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] at Bldg 0701, Room 102, on 13 Dec 99 at 0900 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 3 Dec 99 by 1630 hours 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 81st Medical Group, Adult Ambulatory Care Clinic on 14 DEC, 1999 at 1300 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 Bldg 3501, CQ.
9. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Supporting Documents
 - a. Letter of Reprimand dated **16 Nov 99**
 - b. AF Form 3070 dated 19 Nov 99 w/atchs
 - c. Letter of Reprimand dated **7 Oct 99**
 - d. Letter of Counselor dated 28 Sep 99
2. Airman's Receipt of Notification Memorandum
3. Airman's Statements

ATCH 1