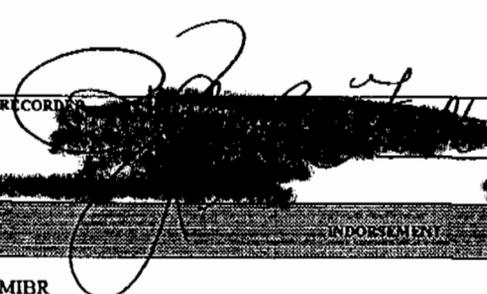
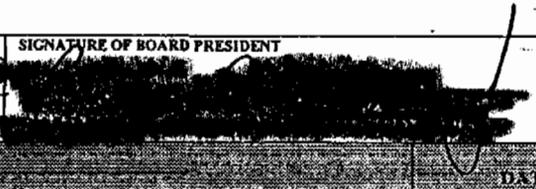


| TYPE GEN | | PERSONAL APPEARANCE | | X RECORD REVIEW | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| <table border="1"> <tr> <td colspan="2">COUNSEL</td> </tr> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td></td> <td>X</td> </tr> </table> | | COUNSEL | | YES | NO | | X | NAME OF COUNSEL AND OR ORGANIZATION | | ADDRESS AND OR ORGANIZATION OF COUNSEL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| COUNSEL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | | A ——— FTING | | <table border="1"> <tr> <th colspan="5">VOTE OF THE BOARD</th> </tr> <tr> <th>HON</th> <th>GEN</th> <th>UOTHC</th> <th>OTHER</th> <th>DENY</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>X</td> </tr> </table> | | | | | VOTE OF THE BOARD | | | | | HON | GEN | UOTHC | OTHER | DENY | | | | | X | | | | | X | | | | | X | | | | | X | | | | | X | | | | | | | | | | | | | |
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| ISSUES A92.15, A92.35, A92.41, A94.05, A67.05 | | INDEX NUMBER A67.50 | | <table border="1"> <tr> <th colspan="6">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> <tr> <td>1</td> <td colspan="5">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td>2</td> <td colspan="5">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td>3</td> <td colspan="5">LETTER OF NOTIFICATION</td> </tr> <tr> <td>4</td> <td colspan="5">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td colspan="5">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td colspan="5">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td colspan="5">TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </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 HEARING | | | | |
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| HEARING DATE 01-04-04 | | CASE NUMBER FD01-00058 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 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 OF RECORDER  | | | | SIGNATURE OF BOARD PRESIDENT  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 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 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 or that provided by the applicant substantiates an inequity or impropriety that would justify a change of the discharge.

Issues. Applicant was discharged for misconduct, minor disciplinary infractions. He had a Letter of Reprimand, and two Articles 15. His misconduct included drinking underage, failing to obey a lawful order (which also involved underage drinking on a separate occasion), violating Phase I training requirements by wearing civilian clothes when not authorized, and by attending a party at a staff member's base quarters, also in contravention of student rules. At the time of the discharge, member waived his right to submit statements in his own behalf. Applicant now contends his discharge characterization was too harsh because it was based on minor incidents and that his service was otherwise dutiful. Applicant's offenses were well documented. The various disciplinary actions taken were given in an effort to rehabilitate him. He was either unwilling or unable to conform his behavior to expected standards. The documented infractions support the characterization of service he received. No inequity or impropriety was found in his discharge in the course of the records review.

Applicant also cited his desire to reenlist in the military. The Board acknowledges the negative impact of member's reenlistment code on applicant, but this is not a matter of equity or impropriety that warrants an upgrade.

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 AB) MISSING DOCUMENTS

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 00/07/13 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. BACKGROUND:

a. DOB: 80/12/12. Enlmt Age: 18 8/12. Disch Age: 19 7/12. Educ: HS DIPL. AFQT: N/A. A-77, E-86, G-88, M-93. PAFSC: 1N211 - Morse Systems Operator Helper. DAS: 00/01/31.

b. Prior Sv: AFRes 99/08/31 - 99/12/14 (3 months 14 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enld as AB 99/12/15 for 6 yrs. Svd: 0 Yrs 6 Mo 29 Das, all AMS.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: (1) 00/03/31, Davis-Monthan AFB, AZ - Article 92. You, who knew or should have known of your duties, o/a 4 Mar 00, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while underage, as it was your duty to do. Forfeiture of \$217.00 pay, 14 days extra duty, and 14 restriction. (No appeal) (No mitigation)

(2) 00/03/09, Davis-Monthan AFB, AZ - Article 92. You, having knowledge of a lawful order issued by TSgt ----- not to drink alcohol, an order which it was your duty to obey, did, o/a 21 Apr 00, fail to obey the same by wrongfully drinking alcohol. Forfeiture of \$234.00 pay and 14 days extra duty, and 14 days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 31 MAY 00 - Uniform violation.

f. CM: none.

g. Record of SV: none.

(Discharged from Davis-Monthan AFB)

h. Awards & Decs: AFTR..

i. Stmt of Sv: **TMS:** (0) Yrs (10) Mos (13) Das
TAMS: (0) Yrs (6) Mos (29) Das

E 13 Das
E 19 Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01/02/22
(Change Discharge to Honorable)

Issue 1: I feel that the discharge given to me implies that it leaves me with no option for reenlistment in the future. I think that my training record of honor graduate of BMT, and graduating in the first phase of technical training 42 days ahead of expectancy, shows that I should be able to reenlist in the future. Moreover to the point of my reasonings of this request, I feel that the discharge recieved (sic) reflects minor incidents and overshadows the amount of dutiful service.

ATCH
none.

01/02/22/ia

FD01-00058



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

20 JUN 2000

MEMORANDUM FOR [REDACTED]

FROM: [REDACTED]

SUBJECT: Legal Review of Discharge - AB [REDACTED],
31 TRS

1. INITIATION OF ACTION: On 15 Jun 00, the commander, 314 TRS, recommended that AB [REDACTED], Respondent, be discharged from the Air Force under AFI 36-3208, paragraph 5.49, for minor disciplinary infractions. The commander recommends a general discharge and does not recommend probation and rehabilitation (P&R).

2. RESPONDENT: The respondent is a 19-year-old airman who has served six months of his first, six-year enlistment. He has no completed EPRs. The respondent is not entitled to a board hearing. After consultation with counsel, Respondent has waived his right to submit a statement for your consideration

3. DISCUSSION:

a. Basis for Discharge: AFI 36-3208, paragraph 5.49, authorizes discharge of an airman for minor disciplinary infractions consisting of failure to comply with nonpunitive regulations or minor offenses under the UCMJ. In this case, the commander cites two Article 15 actions and one letter of reprimand. The violations include failing to obey a lawful order, willfully failing to refrain from drinking alcoholic beverages while underage, and phase violations. These constitute a series of minor disciplinary infractions as contemplated by paragraph 5.49 and renders Respondent subject to discharge.

b. Appropriateness of Discharge: Respondent's minor disciplinary infractions illustrate his inability to comply with Air Force standards, Administrative discharge is appropriate under paragraph 5.49.

c. Characterization of Service: Under AFI 36-3208, paragraph 1.18.I, authorizes an honorable discharge when the airman's service has otherwise been so meritorious that any other characterization would be inappropriate. Paragraph 1.18.2 states that a general discharge is more appropriate when significant negative aspects of the airman's conduct or performance of duty outweigh positive aspects of the airman's military record. Discharge under other than honorable conditions is not authorized under paragraph 5.49. Considering the disciplinary infractions in Respondent's record, a general discharge accurately describes his service. Respondent's service should be characterized as general.

d. Probation & Rehabilitation: Probation and rehabilitation (P&R) is reserved for those cases where an airman could change through counseling and rehabilitation. The commander, 314 TRS, states the respondent is incompatible with military service. P&R is not appropriate in this case.

e. Legal Sufficiency: This discharge package is legally sufficient.

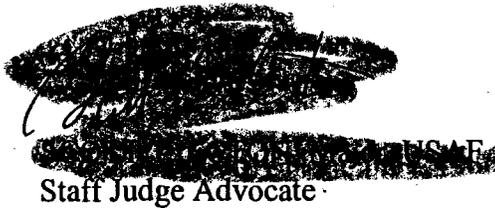
4. 17 TRW/CC OPTIONS: As the SPCM authority, you may:

- a. Retain the respondent in the Air Force;
- b. Refer the case to the general court-martial convening authority with a recommendation for an honorable discharge, with or without P&R;
- c. Separate the respondent with a general discharge, with or without P&R.

5. RECOMMENDATION: I recommend that you separate Respondent with a general discharge under AFI 36-3208, paragraph 5.49, without P&R.



I concur.



 Staff Judge Advocate

Attachment:

 Discharge Package

FD01-00058



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

15 JUN 00

ORA [REDACTED] 314 TRS

FROM: 314 TRS/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 will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 4 Mar 00, you willfully failed to refrain from drinking alcoholic beverages while underage. For this you received an AF Form 3070 (Article 15) on 27 Mar 00.

b. On or about 21 Apr 00, you having knowledge of a lawful order given by [REDACTED] not to drink alcohol, an order which it was your duty to obey, failed to obey the same by wrongfully drinking alcohol. For this you received an AF Form 3070 (Article 15) on 1 May 00.

c. On 6 May 00, you attended a party in post housing while in civilian clothes, which is a violation of the Phase I rules outlined in AETCI 36-2216 and the student Thunderbolt Handbook. For this you received a Letter of Reprimand on 31 May 00.

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. 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 [REDACTED] from Davis-Monthan Area Defense Counsel. 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 20 JUN 00 at 1500 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 the Davis-Monthan AFB Clinic between **1300** and **1500**, Monday through Thursday for your medical 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 the Unit Orderly Room.


Commander

Attachments:

1. Airman's receipt of notification memorandum
2. AF Form 3070 (Article 15), dated 27 Mar 00
3. AF Form 3070 (Article 15), dated 1 May 00
4. Letter of Reprimand, dated 31 May 00