

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | GRADE A1C | AFSN/SSAN [REDACTED] |
|--|---------------------|--------------------------------|

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|----------------|----------------------------|---|
| TYPE | PERSONAL APPEARANCE | X RECORD REVIEW |
| COUNSEL | | ADDRESS AND OR ORGANIZATION OF COUNSEL |
| YES | NO | |
| | X | |

| MEMBERS SITTING | VOTE OF THE BOARD | | | | |
|-----------------|-------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |
| [REDACTED] | | | | | X |

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| ISSUES A93.01 | 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 HEARING | |
| HEARING DATE 19 DEC 02 | CASE NUMBER FD2002-0206 | | | |

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

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.

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| SIGNATURE OF RECORDER [REDACTED] | SIGNATURE OF BOARD PRESIDENT [REDACTED] |
| INDORSEMENT | DATE: 19 DEC02 |

| | |
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| 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 |
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0206

GENERAL: The applicant appeals for upgrade of discharge to Honorable, change the Reason and Authority for discharge and change the RE Code.

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 board finds that neither evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

ISSUE: The applicant contends his discharge was inequitable because it was too harsh due to the fact of being young. The record shows that the applicant received two Article 15's for failure to go and willfully failed to refrain from consuming alcohol while under the age of 21. In addition, he also received two Letter's of Reprimand for violation of dress and appearance standards and reckless driving that caused an accident, and a Verbal Counseling for financial irresponsibility. If the applicant can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community. The board concluded the misconduct was a significant departure from conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge and that 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

[REDACTED]

(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 99/12/17 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, Upgrade of Reentry Code, and Change Discharge Reason.

2. **BACKGROUND:**

a. DOB: 78/05/16. Enlmt Age: 18 4/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-71, E-73, G-74, M-77. PAFSC: 3E231 - Pavements and Construction Equipments Apprentice. DAS: 97/06/11.

b. Prior Sv: (1) AFRes 96/10/09 - 96/12/10 (2 Mos 2 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 96/12/11 for 4 yrs. Svd: 3 Yrs 0 Mo 7 Das, all AMS.

b. Grade Status: A1C - 98/04/11
AMN - 97/06/11

c. Time Lost: None.

d. Art 15's: (1) 99/10/06, Eielson Air Force Base, Alaska, Article 86. You, did, on or about 21 Sep 99, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 3349. Suspended reduction to AMN, and 30 days extra duty. (No appeal) (No mitigation)

(2) 98/09/25, Eielson Air Force Base, Alaska, Article 92. You, who knew of your duties, on or about 10 Sep 98, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol while under the age of 21, as it was your duty to do. Suspended reduction to AMN, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 27 SEP 99 - Violation of dress and appearance standards.
LOR, 27 JUL 99 - Reckless driving that caused an accident.
VBC, 13 FEB 99 - Financial irresponsibility.

f. CM: None.

g. Record of SV: 96/12/11 - 98/08/10 Eielson AFB 4 (Initial)

98/08/11 - 99/10/08 Eielson AFB 3 (Annual) REF

(Discharged from Eielson AFB)

h. Awards & Decs: AFTR, SAEMR.

i. Stmt of Sv: TMS: (3) Yrs (2) Mos (9) Das

TAMS: (3) Yrs (0) Mos (7) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/08/20.

(Change Discharge to Honorable, Upgrade of Reentry Code, and Change Discharge Reason.

Issue: I believe that the character of service that I recieved (sic) was deserved by the actions that I made while in the Air Force. I also believe that the Narrative Reason for Separation (Misconduct) was harsh, but deserved None the less. (sic) The reason I am sending in paper work (sic) is to have my seperation (sic) code reviewed. With my discharge I recieved (sic) a RE code of 2B which prevents me from entering service again. My only words of defense are that I was young and stupid. Since my discharge in 1999 I have grown up and realized there is no other life I would rather have than the Air Force life that I have missed for so long now. I would like to be reviewed and have my RE code upgraded to join the Air Force on an Active Duty Basis, which ever (sic) code may be accepted possibly a 3B. I know I ask alot (sic) when I ask for a second chance, but I think it is a chance that is deserved.

ATCH

None.

02/09/23/cr

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

MEMORANDUM FOR 354 FW/CC

FROM: 354 FW/JA

SUBJECT: Legal Review of AFPD 36-32 and AFI 36-3208 Discharge Action -
[REDACTED], PACAF

1. I have reviewed the discharge package of [REDACTED] and find it legally sufficient to support the proposed action. I concur with the recommendation of the unit commander that [REDACTED] be discharged from the United States Air Force for Misconduct - Minor Disciplinary Infractions. The authority for my recommendation is AFPD 36-32 and AFI 36-3208, paragraph 5.49. I also recommend his discharge be characterized as general without the opportunity for probation and rehabilitation.

2. DISCUSSION: The following incidents form the basis for this action:

a. On or about 10 Sep 98, [REDACTED] received an Article 15 for underage drinking (Atch 1).

b. On or about 14 Jun 99, he received a Letter of Reprimand for driving a government vehicle too fast and too close for road conditions (Atch 2).

c. On or about 21 Sep 99, he received a second Article 15 for failure to go at the time prescribed to his appointed place of duty (Atch 3).

d. On or about 27 Sep 99, he received a Letter of Reprimand for reporting to a military formation without his BDU jacket (Atch 4).

3. All procedures required by AFI 36-3208 have been properly complied with, and the case has been appropriately processed. [REDACTED] consulted counsel and waived his right to submit statements.

4. IRREGULARITIES: None.

5. OPTIONS FOR THE SPECIAL COURT-MARTIAL CONVENING AUTHORITY: You may:

a. Retain the respondent in the Air Force.

b. Direct the case be reinitiated under another paragraph, if you deem it appropriate.

c. Recommend the respondent be separated with an honorable discharge, with or without probation and rehabilitation, and forward the case to the General Court-Martial Convening Authority (11 AF/CC) or his designee (11 AF/CV) for action.

d. Direct that the respondent be separated with a general discharge, with or without probation and rehabilitation.

6. RECOMMENDATION: I have reviewed this discharge package and find it legally sufficient to support involuntarily discharging [REDACTED] has been counseled on numerous occasions for his behavior. In addition to counselings, he has received two Letters of Reprimand and two Article 15s. [REDACTED] continues to disregard the rules and regulations. The unit has used the appropriate tools in an attempt to rehabilitate him and they have not been successful. Therefore, [REDACTED] should be discharged from the Air Force with Misconduct-Minor Disciplinary Infractions, paragraph 5.49 as the basis. I concur with the squadron commander that he be discharged with a general discharge, without the opportunity for probation and rehabilitation.

[REDACTED] USAF
Chief, Military Justice

I concur

[REDACTED] USAF
Staff Judge Advocate

Attachment:

[REDACTED] Discharge Package

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

2 DEC 99

MEMORANDUM FOR [REDACTED], PACAF

FROM: 354 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct - Minor Disciplinary Infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraphs 5.49. If my recommendation is approved, you will be discharged and your service will be characterized as general. You will not be given an opportunity for probation and rehabilitation.

2. My reasons for this action are as follows:

a. On or about 10 Sep 98, you consumed alcohol while being underage. For this infraction, you received an Article 15 (Atch 1).

b. On or about 14 Jun 99, you rear-ended a government vehicle (GOV) while driving a GOV, too fast and too close for road conditions. For this infraction, you received a Letter of Reprimand (Atch 2).

c. On or about 21 Sep 99, you failed to go at the time prescribed to your appointed duty. For this infraction, you received an Article 15 (Atch 3).

d. On or about 27 Sep 99, you reported to a military formation without your BDU jacket. For this infraction, you received a Letter of Reprimand (Atch 4).

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 [REDACTED] Area Defense Counsel, Building 3112, Room 155, Eielson AFB, Alaska, on 3 Dec 99 at 1000. 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 (3 duty days) 7 Dec 99, 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 Physical Examination Section, 354th Medical Group, Building 3349, at 1000 on 6 DEC 99 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 your orderly room.


Commander, 354 CES

Attachments:

1. Article 15, dated 21 Sep 98
2. Letter of Reprimand, dated 27 Jul 99
3. Article 15, dated 27 Sep 99
4. Letter of Reprimand, dated 27 Sep 99