

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
████████████████████					X
████████████████████					X
████████████████████					X
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ISSUES A95.00	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD	
		1	ORDER APPOINTING THE BOARD
		2	APPLICATION FOR REVIEW OF DISCHARGE
		3	LETTER OF NOTIFICATION
HEARING DATE 11 JUN 02	CASENUMBER FD2002-0036	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

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

SIGNATURE OF RECORDER ████████████████████	SIGNATURE OF BOARD PRESIDENT ████████████████████
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INDORSEMENT	DATE: 11 JUN 02
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, 3 RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0036

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 board 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 that would justify a change of discharge.

Issue: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant had an Article 15 for wrongfully consuming alcohol and four Letters of Reprimand for sleeping while in class and failure to obey a lawful order, drunk and disorderly, failure to go and smoking while in uniform. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the 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.

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]
[REDACTED] (Former AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 01/05/04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 79/12/04. Enlmt Age: 20 8/12. Disch Age: 21 5/12. Educ: HS DIPL. AFQT: N/A. A-50, E-42, G-42, M-55. PAFSC: 2T111 - Vehicle Operations Helper. DAS: 01/01/22.

b. Prior Sv: (1) AFRes 00/08/10 - 00/10/24 (2 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 00/10/24 Svd: 00 Yrs 06 Mo 11 Das, all AMS.

b. Grade Status: none.

c. Time Lost: none.

d. Art 15's: (1) 04/04/01, Sheppard AFB, TX - Article 92. You did, on or about 13 Mar 01, violate a lawful general instruction, to wit: paragraph 5.2.4, Sheppard AFB Instruction 36-2902, dated 15 Oct 97, by wrongfully consuming alcohol. Fifteen days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 16 MAR 01 - Drunk and disorderly.
LOR, 12 MAR 01 - Failure to go.
LOR, 01 MAR 01 - Smoking in uniform.
LOR, 06 FEB 01 - Failure to obey lawful order & dereliction of duty by sleeping in class.

f. CM: none.

g. Record of SV: none.

(Discharged from Sheppard AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (00) Yrs (08) Mos (25) Das
TAMS: (00) Yrs (06) Mos (11) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02/01/16.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
none.

02/04/26/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

30 Apr 01

MEMORANDUM FOR 782 TRG/CC

FROM: 82 TRW/JAC

SUBJECT: Legal Review, Recommendation for Discharge – AB [REDACTED] 366 TRS, Det 7

1. We have reviewed this discharge case file and find it legally sufficient to support discharge in accordance with the provisions of AFI 36-3208. Based upon our review, we conclude that the incidents documented within this file sufficiently support AB [REDACTED] discharge from the Air Force. We concur with the 366 TRS, Det 7/CC that AB [REDACTED] should be discharged with an under honorable conditions (general) discharge in accordance with AFI 36-3208, paragraph 5.49 (minor disciplinary infractions).

2. Basis for Action. On 25 Apr 01, the 366 TRS, Det 7/CC notified AB [REDACTED] that he was recommending that AB [REDACTED] be discharged from the service due to his misconduct.

3. Evidence for the Commander. The preponderance of the evidence in the case file supporting the squadron section commander's recommendation consists of the following:

a. The respondent did, at or near Fort Leonard Wood MO, on or about 13 Mar 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.4, dated 15 Oct 97, by wrongfully consuming alcoholic beverages. For this misconduct, he received an Article 15 on 4 Apr 01.

b. The respondent did, at or near Fort Leonard Wood MO, on or about 11 Mar 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.4, dated 15 Oct 97, by Wrongfully consuming alcoholic beverages. In addition, the respondent was drunk and disorderly by urinating on his dorm room door. For this misconduct, he received a Letter of Reprimand (LOR) on 16 Mar 01.

c. The respondent did, at or near Fort Leonard Wood MO, on or about 13 Feb 01, on or about 20 Feb 01, on or about 27 Feb 01, and on or about 6 Mar 01, fail to go to his appointed place of duty at the appointed time. For this misconduct, he received an LOR on 12 Mar 01.

d. The respondent did, at or near Fort Leonard Wood MO, on or about 28 Feb 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 2.1.12, dated 15 Oct 97, by smoking while in uniform. For this misconduct, he received an LOR on 1 Mar 01.

e. The respondent, having knowledge of a lawful order issued by SSgt [REDACTED], to wit: an order which was his duty to obey, did, at or near Fort Leonard Wood MO, on or about 6 Feb 01, fail to obey the same by failing to complete his assigned homework. For this misconduct and subparagraph "f" below, he received an LOR on 6 Feb 01.

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f. The respondent, who knew or should have known of his duties at Fort Leonard Wood MO, on or about 23 Sep 00, was derelict in the performance of those duties by sleeping in class, as it was his duty not to do.

4. Additional Information. The respondent is 21 years old, began his present enlistment on 24 Oct 00, and was assigned to his unit on 22 Jan 01. His ASVAB scores are as follows: A - 50, E - 42, G - 42, and M - 55. The respondent is entitled to wear the Air Force Training Ribbon. He **has** waived his right to consult counsel and has waived his right to submit statements for your consideration.

5. We note no administrative errors of legal significance, and we concur with the detachment commander's recommendation for discharge.

6. In accordance with AFI 36-3208, your options are to:

a. Direct AB [REDACTED] retention;

b. Suspend an under honorable conditions (general) discharge **and** recommend Probation and Rehabilitation;

c. Direct his discharge with an under honorable conditions (general) discharge; or

d. Recommend that AB [REDACTED] be discharged with an honorable discharge. If you determine **an honorable discharge is appropriate**, this file must be forwarded to 2 AF/CC since only a General Court-Martial Convening Authority may approve an honorable discharge characterization when the basis for discharge is misconduct (AFI 36-3208, paragraph 5.48.4).

7. If you have any questions regarding this matter, please contact Capt [REDACTED] at ext 6-7186.

[REDACTED] Major, USAF
Deputy Staff Judge Advocate

Attachment:
Case File

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DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

25 APR 2001

MEMORANDUM FOR AB [REDACTED] FR [REDACTED], 366 TRS, DET 7

FROM: 366 TRS, DET 7/CC
181 COOLEY DRIVE, SUITE A
FORT LEONARD WOOD MO 65473

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 under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You did, at or near Fort Leonard Wood MO, on or about 13 Mar 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.4, dated 15 Oct 97, by wrongfully consuming alcoholic beverages. For this misconduct you received an Article IS on 4 Apr 01.

b. You did, at or near Fort Leonard Wood MO, on or about 11 Mar 01, violate a lawful general instruction, to wit: SAFBI 36-2902, paragraph 5.2.4, dated 15 Oct 97, by wrongfully consuming alcoholic beverages. In addition, you were drunk and disorderly by urinating on your room door. For this misconduct, you received a LOR on 16 Mar 01.

c. You did, at or near Fort Leonard Wood MO, on or about 13 Feb 01, on or about 20 Feb 01, on or about 27 Feb 01, and on or about 6 Mar 01 fail to go to your appointed place of duty at the appointed time, to wit: mandatory assignment briefing. For this misconduct you received a Letter of Reprimand (LOR) on 12 Mar 01.

d. You did at or near Fort Leonard Wood MO, on or about 28 Feb 01, violate a lawful general instruction, to wit: SAFBI, paragraph 2.1.12, by smoking while in uniform. For this misconduct you received an LOR on 1 Mar 01.

e. You, having knowledge of a lawful order issued by SSgt [REDACTED], to wit: an order which was your duty to obey, did, at or near Fort Leonard Wood, MO, on or about 6 Feb 01, fail to obey the same by failing to complete your assigned homework. For this misconduct you received an LOR on 6 Feb 01.

f. You, who knew or should have known of your duties at Fort Leonard wood MO, were derelict in the performance of those duties by sleeping in class, as it was your duty not to do.

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

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characterized. If you are discharged, **you will be ineligible** for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds **may** be subject to recoupment.

3. You have the right to consult **counsel**. Military legal counsel Captain [REDACTED], Sheppard AFB, has been obtained to assist you. I have made an appointment for **you** to consult **via telephone**, 1-940-676-2186 at 1600 hours on **26 Apr 01**. You may consult civilian counsel **at your own** expense.
4. You have the right to submit statements in your **own** behalf. Any statements you want the separation authority to consider must reach **me by** 1700 hours on **30 Apr 01 unless** you request and receive an extension for good cause shown. I will send them **to** the separation authority.
5. If you **fail** to consult counsel or **submit** statements in **your own** behalf, your failure will constitute a waiver of your right **to do so**.
6. You **are** scheduled for a medical examination at the Consolidated Troop Medical Clinic **at** 1300 hours on **26 Apr 01 for** the examination.
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**.
8. **Execute** the attached acknowledgment and return it to me immediately.

[REDACTED]
[REDACTED] Maj, USAF
Commander

Attachments:

1. AF Form 3070, 4 Apr 01
2. Airman's response to Article 15, 29 Mar 01
3. MFR, MSgt [REDACTED], 15 Mar 01
4. Letter of reprimand, 16 Mar 01
5. Letter of reprimand, 12 Mar 01
6. MSgt [REDACTED] Memorandum for Record, 12 Mar 01
7. Letter of reprimand, 1 Mar 01
8. Letter of reprimand, 6 Feb 01
9. AETC Form 125A, 11 Apr 01
10. AETC Form 156, CN 010214
11. AETC Form 581, 8 Mar 01
12. LACKLAND AFR Form 205
13. Airman's Receipt to Notification Memorandum *wd*

cc:

82 MSS/DPMAR
366 TRS/CSS (File)
Individual