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| ISSUES | | INDEX NUMBER | | 1 | EXHIBITS SUBMITTED TO THE BOARD | | | | | |
| A94.05 |)5 | A67.90 | 1 ORDER APPOINTING THE BOARD | | | | | | | |
| | | | | APPLICATION FOR REVIEW OF DISCHARGE | | | | | | |
| | | | | LETTER OF NOTIFICATION | | | | | | |
| HEARING | DATE | CASÉ NUMBÉR | 3 | B | BRIEF OF PERSONNEL FILE | | | | | |
| 21 AUC | G 02 | FD2002-0076 | - | | COUNSEL'S RELEASE TO THE BOARD | | | | | |
| | | · | - | ADDITIONAL EXHIBITS SUBMITTED AT TIME OF | | | | | | |
| | | | | PE | PERSONAL APPEARANCE | | | | | |
| | | | - | TAPE RECORDING OF PERSONAL APPERANCE HEARING | | | | | | |
| APPLICANT | T'S ISSUE | and the board's decisional rational are discussed on the attached alr | FORCE | bisc | HARGI | E REVIEW BOAR | DECISIONAL I | CATIONALE | | |
| REMARKS | | | | | | | | | | |

KECURD REVIEW

Case heard at Washington, D.C.

Advise applicant of the decision of the Board, the right to a personal appearance, and the right to submit an application to the AFBCMR.

| INDORSEMENT | DATE: 21 AUG 02 |
|--|---|
| TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742 | 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 |

AFHQ FORM 0-2077, JAN 00

(EF-V2)

Previous edition will be used.

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD02-0076

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 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 believes his discharge was too harsh in that his supervisor provoked most of the misbehavior. The record indicates the applicant received an Article 15 for being disrespectful in language toward a SMSgt and for being derelict in the performance of his duties for failure to clean the inside and engine compartment of a vehicle. In addition, he received four Letters of Reprimand for being disrespectful to a SNCO, failing a dormitory room inspection and disobeying a lawful order, and, six Letters of Counseling for failure to go, disobeying lawful orders, uniform violation and being disrespectful to an NCO. The applicant had several different supervisors and was not unfairly discharged. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons that were the basis for this case. No inequity or impropriety in his discharge was suggested or found in the course of the records review. His misconduct was a significant departure from conduct expected of all military members. The Board concluded that the character and reason for discharge were appropriate due to his misconduct.

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 or change the reason for 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 AMN) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 01/12/05 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for HON Disch.

2. BACKGROUND:

c.

a. DOB: 77/06/06. Enlmt Age: 22 6/12. Disch Age: 24 5/12. Educ: HS DIPL. AFQT: N/A. A-69, E-43, G-52, M-28. PAFSC: 3E433 - Environmental Apprentice. DAS: 00/08/10.

b. Prior Sv: (1) AFRes 99/12/23 - 00/02/08 (1 month 16 days) (Inactive).

SERVICE UNDER REVIEW:

- a. Enlisted as AB 00/02/09 for 4 yrs. Svd: 01 Yrs 09 Mo 27 Das, all AMS.
- b. Grade Status: AMN 01/10/15 (Article 15, 01/10/15) A1C - 01/06/09

AMN - Unknown

none.

Time Lost:

- d. Art 15's: (1) 01/10/15, Ellsworth AFB, SC Article 91. You were, on or about 18 Sep 01, disrespectful in language toward SMSgt -----, a senior noncommissioned officer, then known by you to be a superior noncommissioned officer, who was then in the execution of her office, by saying to her, "don't let it go to your head," and "don't go crazy on me now," or words to that effect. Article 92. You, who knew of your duties, from on or about 11 Sep 01 to on or about 12 Sep 01, were derelict in the performance of those duties in that you negligently failed to clean the inside and engine compartment of vehicle 93B3708, as it was your duty to do. Reduction to Amn, and a reprimand. (No appeal) (No mitigation)
- e. Additional: LOC, 07 SEP 00 Failure to go.
 - LOC, 12 OCT 00 Disobeying a lawful order.
 - LOC, 18 OCT 00 Disobeying a lawful order.
 - LOC, 15 NOV 00 Uniform violation.
 - LOC, 20 DEC 00 Disrespect to an NCO.
 - LOC, 03 JUL 01 Disobeying a lawful order.
 - LOR, 20 AUG 01 Disrespect to a SNCO.
 - LOR, 12 OCT 01 Dormitory room inspection failure.
 - LOR, 18 OCT 01 Disrespect to an Officer and disobeying a

lawful order.

LOR, 24 OCT 01 - Disrespect to an officer, SNCO, and disobeying a lawful order.

- f. CM: none.
- g. Record of SV: none.

(Discharged from Ellsworth AFB)

- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (01) Yrs (11) Mos (13) Das TAMS: (01) Yrs (09) Mos (27) Das
- 4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/02/14. (Change Discharge to Honorable)

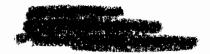
ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. Personal Statement.

02/06/05/ia

February 2, 2002



SAF/MIBR 550C Street West Suite 40 Randolph AFB, Texas 781501-4742

To Whom It May Concern:

I was stationed at Ellsworth AFB, SD from August of 2000 to December of 2001. I spent my entire tour being tortured by my supervisor. He tried to make me out to be a troublemaker, but he was the one who provoked most of the misbehavior. He felt comfortable doing it because he was of higher rank and he knew he could do it easily without any punishment. He would tease, curse, laugh and mock at me in front of the other workers of the shop. I was very embarrassed by his actions. I believe he was mentally unstable and was clearly trying to mark his territory. He would scrutinize every action I made and every statement I made.

The situation was corrupt from the first day I met him. The first day I went to the shop for a visit before I was being placed there, I was took into a room yelled at, provoked, interrogated and called a lie. The two people involved in this incident later apologized, but the harassment continued. There were times when I overheard my supervisor talking about his personal life and past, and I wondered if it had anything to do with the way I was being treated. One time he mentioned being abused and neglected by one of his parents and a stepparent. Our relationship was so negative that I unfortunately had to report him to Social Actions. I reluctantly was sent to a temporary work location for two months. I unfortunately had to report back to my original duty shop afterward. When I came back to the shop I was appointed to another supervisor, but that really didn't help. I till was receiving brutal mental abuse from my former supervisor for no apparent reason. He was trying to retaliate by framing me into negative situations.

The civilian supervisor and a young female airman in the shop also mistreated me. The civilian supervisor threatened to discharge me from the Air Force for an unjust reason and told me I would have to go back home to my parents. He would also scrutinize everything I did. He would curse and yell at me. The female airman of the shop would also tease and curse at me and tried getting me in trouble by lying on me to my supervisors. She tried to accuse me of harassing her, but the allegations came up false.

During this whole brutal situation I always managed to conduct myself in a professional manner toward all the members of the shop. I never mistreated anyone at Ellsworth AFB. I believe I am as a respectable person as a person can possibly be. I have never got into any major trouble since I've been in the Air Force. I never drunk alcohol, smoked, mistreated females, stole or started fights with anybody since I been on this planet. You can check my records. There where airman on that base that done negative things worse than me and they were never disciplined!

The main point I'm trying to establish is that I felt that I was denied my freedom since I landed at my active duty base. I felt like I was serving a jail sentence. The Air Force denied me of my rights as a loyal citizen of the U.S.A and plotted certain situations to make every error appear to be my fault. I had the worst supervisor in the history of the Air Force. He never tried to reason with me. I believe that it is quite possible that his diabetes may have cause his stress level to rise. I had a double standard compared to everyone else in my shop. The other workers in the shop made their fair share of mistakes and were never

disciplined. If I made one minor mistake I was exploited incorrectly. He tried to make matters worse by having other representatives in my chain-of-command discipline me by overemphasizing the situation.

My section commander ordered me to file a complaint with my Base I.G if I felt I was being mistreated. So I filed a complaint against both of my supervisors. A week later my squadron tried to retaliate against me by giving me an unnecessary Article 15. I felt like I was being punished for speaking out and if anybody deserve to be punished, it was my supervisors. I filed a complaint against every member in my chain-ofcommand because I felt they where ignoring my problems, protecting my supervisors and tried to shift all the blame upon me. I believe my supervisors were submitting some type of prejudice against me. 90% of their taunting seemed more personal than business. They made me feel like I didn't belong there. The other three airman in the shop did weekend stand by duty, but for some reason I was never permitted to do so. Why? My base I.G did an investigation on my situation to see if racism was possible since I am African-American and my shop members and chain-of-command were Caucasian. In some ways I felt like I was a cold-hearted criminal because of the unusual treatment I was receiving. I sincerely honor and understand the Air Force rules and regulations of paying close attention to details. Please trust me, I am not trying to deny my responsibilities because everyone make mistakes and the objective is to not make the same mistakes reoccur. I tried my best to uphold the Air Force standards. I believe that many of my supervisor's allegations against me were inaccurate and exaggerated to make me look very irresponsible. He tried to make me out to be a very serious troublemaker that didn't care.

I believe I also may have got a discharge for speaking out to the I.G. I really wanted to stay in the Air Force. It is so unfortunate that a young airman has to endure with a very negative supervisor at his very first duty station. I am glad that I no longer have to endure the punishment from my supervisor, but I am very surprise that the Air Force didn't want to work with a young airman who displayed potential and patience. If I can't get justice from the Air Force than that just means God has a higher plan for me because I know I did my very best to become a great airman. I had completed two sets of my CDS's and had one more set to complete. I hope that no other airman has to go through what I been through. There was so much politics involved at Ellsworth AFB. I think the 28 CES Squadron of Ellsworth AFB needs to make some serious changes if they haven't yet done so. If I was stationed at any other base I believed I would have easily succeeded. I know I wasn't in THE MARINES but I suffered "hell on earth."

Thank you, so very much for listening to me and I ask that you would please consider upgrading my discharge so that I can work on making a positive future for myself which I planned on doing when I first joined the military.





DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 28TH BOMB WING (ACC)
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

MEMORANDUM FOR 28 BW/CC

FROM: 28 BW/JA

SUBJECT: Administrative Discharge - Airman

1. I have reviewed the proposed discharge action case file and find it legally sufficient to support a decision to separate Respondent with an under honorable conditions (general) discharge without Probation and Rehabilitation (P & R).

2. Background:

- a. Respondent is a 24-year-old Environmental Controls Apprentice assigned to the 28th Civil Engineer Squadron. His TAFMSD is 9 Feb 00, and he began his four-year enlistment on 9 Feb 00. He was assigned to his present unit on 10 Aug 00.
- b. Respondent's squadron commander properly notified Respondent of his recommendation to separate Respondent under the provisions of AFI 36-3208, Chapter 5, Section H, paragraph 5.50.2, for a pattern of misconduct, specifically, conduct prejudicial to good order and discipline, with an under honorable conditions (general) discharge. Since Respondent is not entitled to a board hearing, this case has been properly pursued via the notification procedures of AFI 36-3208, Chapter 6, Section B.
- 3. Evidence for the Government: Respondent has a history of disciplinary problems and has failed to respond to any rehabilitative efforts.
- a. Respondent did, at or near Ellsworth Air Force Base, South Dakota, on divers occasions between on or about 6 Sept 00 and on or about 7 Sept 00 fail to go at the time prescribed to his appointed place of duty to wit: 28th Civil Engineer Squadron's Environmental Control, Building 8136. For this action, Respondent received a Letter of Counseling (LOC) on 7 Sept 00.
- b. Respondent, having knowledge of a lawful order issued by Staff Sergeant to wit: to bring his CDCs after lunch and clean out the freezer, an order which it was Respondent's duty to obey, did, at or near Ellsworth Air Force Base, South Dakota, on or about 12 Oct 00, fail to obey the same by wrongfully failing to bring his CDCs and failing to clean out the freezer. For these actions, Respondent received an LOC on 12 Oct 00.
- c. Respondent, having knowledge of a lawful order issued by wit: "form up behind me so I can be sure you are here on time," an order which it was Respondent's

punished under Article 15, UCMJ, on 15 Oct 01. Punishment was reduction to the grade of airman and a reprimand. This Article 15 established Respondent's Unfavorable Information File (UIF).

- j. Respondent did, at or near Ellsworth Air Force Base, South Dakota, on or about 15 Oct 01, while in the office of Senior Master Sergeant and in the presence of Staff Sergeant her office after being dismissed. For these actions, Respondent received an LOR on 18 Oct 01.

 This LOR was added to Respondent's UIF.
- k. Respondent did, at or near Ellsworth Air Force Base, South Dakota, on or about 22 Oct 01, walk right up to Senior Master Sergean at least twice during their conversation to keep Respondent at normal distance from her. After Respondent had been in the office arguing with First Lieutenant and Senior Master Sergean becoming more disrespectful and nearly accusing First Lieutenant of lying, Respondent was asked to leave. Respondent refused to go and had to be told to leave three times. Also, on or about 23 Oct 01, during a conversation with Senior Master Sergeant she asked Respondent a question and he answered by saying "yeah man." For these actions, Respondent received an LOR on 24 Oct 01. This LOR was added to Respondent's UIF.
- 4. Evidence for the Respondent: Respondent's unit properly notified Respondent of his rights to consult legal counsel and submit statements in his behalf for your consideration (Tab D). On 29 Nov 01, Respondent consulted legal counsel and submitted a statement for your consideration (Tab G). Respondent admits he has made mistakes, but feels he is maturing and improving as a person and as an airman. Respondent requests you give him probation and rehabilitation or an honorable discharge.
- 5. <u>Discussion:</u> During his military career, Respondent has engaged in a pattern of misconduct, specifically, conduct prejudicial to good order and discipline, necessitating his administrative discharge. He received five LOCs, five LORs, three UIF entries and one Article 15. Respondent's conduct is prejudicial to good order and discipline due to his failure to adhere to standards and his repeated blatant disrespect toward non-commissioned officers and a commissioned officer. Respondent was given ample opportunities to rehabilitate himself and to adhere to standards. Respondent's conduct is clearly incompatible with further military service. With regard to the characterization of his discharge, the negative aspects of Respondent's service outweigh any positive contributions he has made in his Air Force career. Accordingly, an under honorable conditions (general) discharge characterization is warranted. Any further attempt to rehabilitate him will not be beneficial to his unit or the Air Force. Therefore, I do not recommend P & R in conjunction with this discharge.
- 6. Errors and Irregularities: I note no errors or irregularities prejudicial to the Respondent's substantive or procedural rights.
- 7. Options: As separation authority in this case, you may:

- a. Direct retention, if you determine the evidence does not warrant discharge; or
- b. Forward this case to 8 AF/CC with the recommendation that the Respondent receive an honorable discharge with or without P & R; or
- c. Return this case to the unit for re-initiation, with the recommendation that the Respondent receive an under other than honorable conditions discharge; or
- d. Direct the Respondent's separation with an under honorable conditions (general) discharge with or without P & R.
- 8. <u>Recommendation:</u> Direct Respondent's separation with an under honorable conditions (general) discharge without P & R. A proposed memorandum to that effect is attached for your signature.



Staff Judge Advocate

Attachments:

- 1. Proposed letter
- 2. Case file





DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 28[™] BOMB WING (ACC) ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

26 NOV 01

MEMORANDUM FOR AIRMAN

N

FROM: 28 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct, specifically, conduct prejudicial to good order and discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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 Ellsworth Air Force Base, South Dakota, on divers occasions between on or about 6 Sept 00 and on or about 7 Sept 00 fail to go at the time prescribed to your appointed place of duty to wit: 28th Civil Engineer Squadron's Environmental Control Building # 8136. For this action, you received a Letter of Counseling (LOC) on 7 Sept 00.
- b. You, having knowledge of a lawful order issued by Staff Sergeant to wit: to bring you CDCs after lunch and clean out the freezer, an order which it was your duty to obey, did, at or near Ellsworth Air Force Base, South Dakota, on or about 12 Oct 00, fail to obey the same by wrongfully failing to bring your CDCs and failing to clean out the freezer. For these actions, you received an LOC on 12 Oct 00.
- c. You, having knowledge of a lawful order issued by Staff Sergeant to wit "form up behind me so I can be sure you are here on time," an order which it was your duty to obey, did, at or near Ellsworth Air Force Base, South Dakota, on or about 18 Oct 00, fail to obey the same by not forming up behind. For this action, you received an LOC on 18 Oct 00.
- d. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 14 Nov 00, fail to follow standards by not having your name tape and the U.S. Air Force tape sewn on your uniform shirt. For this action, you received an LOC on 15 Nov 00.

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- e. You were, at or near Ellsworth Air Force Base, South Dakota, on or about 19 Dec 00, disrespectful in language toward Staff Sergean a non-commissioned officer, then known by you to be a non-commissioned officer, who was then in the execution of his office by saying to him, "What the hell are you doing here?" or words to that effect. For this action, you received an LOC on 20 Dec 00.
- f. You were, at or near Ellsworth Air Force Base, South Dakota, on or about 28 Jun 01, directed to be prepared for an in-shop Mobility Bag inspection which you failed to do. This was not the first time you failed to follow orders. Also, you failed to ensure your uniforms were serviceable at all times, and you lied to your supervisors when questioned whether your stripes were on your uniforms. For these actions, you received a Letter of Reprimand (LOR) on 3 Jul 01.
- g. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 16 Aug 01, show disrespect toward Senior Master Sergeant by referring to her as "Miss" several times during a counseling session. You were informed by Senior Master Sergeant that calling any females in the military "Miss" was disrespectful and does not follow proper military customs and courtesies. You continuously called Senior Master Sergeant even after she corrected you several times. During the counseling session you frequently interrupted her and had to be told to be quiet until she finished. You tried to leave the office before Senior Master Sergeant dismissed you and continued to show disrespect through your comments and gestures. For these actions, you received an LOR on 20 Aug 01.
- h. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 20 Sep 01, fail a scheduled dormitory inspection. For this action, you received an LOR on 12 Oct 01.
- i. You were, at or near Ellsworth Air Force Base, South Dakota, on or about 18 Sep 01, disrespectful in language toward Senior Master Sergeant products, a senior non-commissioned officer, then known by you to be a superior non-commissioned officer, who was then in the execution of her office, by saying to her, "don't let it go to your head," and "don't go crazy on me now," or words to that effect. You, who knew of your duties, at or near Ellsworth Air Force Base, South Dakota, from on or about 11 Sep 01 to on or about 12 Sep 01, were derelict in the performance of those duties in that you negligently failed to clean the inside and engine compartment of vehicle 93B3708, as it was your duty to do. For these actions, you were punished under Article 15, UCMI, on 15 Oct 01. Punishment was reduction to the grade of airman and a reprimand. This Article 15 established your Unfavorable Information File (UIF).
- j. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 15 Oct 01, while in the office of Senior Master Sergeant—and in the presence of Staff Sergeant—call Senior Master Sergeant—Michelle—a liar. You also refused to leave her office after being dismissed. For these actions, you received an LOR on 18 Oct 01. This LOR was added to your UIF.

- k. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 22 Oct 01, walk right up to Senior Master Sergeant encroaching in her personal space, to the point that she had to extend her arm at least twice during your conversation to keep you at normal distance from her. After you had been in the office arguing with First Lieutenant and Senior Master Sergeant becoming more disrespectful and nearly accusing First Lieutenant of lying, you were asked to leave. You refused to go and had to be told to leave three times. Also, on or about 23 Oct 01, during a conversation with Senior Master Sergeant she asked you a question and you answered by saying "yeah man." For these actions, you received an LOR on 24 Oct 01. This LOR was added to your UIF.
- 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 discharge 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 Captain Area Defense Counsel, 385-2158, 1000 Ellsworth Street, Suite 1700 on 2 Nov Oat 1030 hours. 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 29 Novo1 at 1230 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 matters 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 Exams Section of the Base Clinic on hours for the examination. This is a mandatory appointment and you must be in uniform. You must report at least 15 minutes in advance to this appointment to complete necessary paperwork.
- 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.

PD2002-0076

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



Commander, 28th Civil Engineer Squadron

Attachments:

- 1. Supporting documents
 - a. LOC 07 Sep 00
 - b. LOC 12 Oct 00
 - c. LOC 18 Oct 00
 - d. LOC 15 Nov 00
 - e. LOC 20 Dec 00
 - f. LOR 03 Jul 01
 - g. LOR 20 Aug 01
 - h. LOR 12 Oct 01
 - i. Article 15/UIF 15 Oct 01
 - j. LOR/UIF 18 Oct 01
 - k. LOR/UIF 24 Oct 01
- 2. Airman's Acknowledgment