








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 NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO	
	X	



MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A94.05	INDEX NUMBER A67.50	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 18 DEC 02	CASE NUMBER FD2002-0295			

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: 18 DEC 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, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD02-0295

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

ISSUE: The applicant contends his discharge was inequitable because it was too harsh in that he gave aid to the OSI pertaining to airmen using illegal drugs and due to his outstanding academic achievement. The records indicated the applicant received two Article 15's. The first one for being AWOL for 5 days, failure to remain in uniform and using a personal vehicle when he was not supposed to. The second one for failure to obey an order by wrongfully failing to return to and remain in his quarter's from 2300 to 0400. Also, he received four Letter's of Reprimand for violation of squadron policies and instructions by an NCO, making a false official statement, smoking in his room, and failure to report for physical conditioning, having an unsecured locker, failure to return to his dorm room after a weekend, sleeping in room while being absent for physical conditioning, and failure to obey an order or regulation. The Board reviewed the record and concluded the conduct for which the applicant was discharged was a significant departure from the conduct expected of all military members. This conduct was sufficiently egregious to characterize applicant's service as under honorable conditions (general). The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

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 AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 98/01/23 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, Change Reason for Discharge, and Upgrade to Reentry Code.

2. **BACKGROUND:**

a. DOB: 78/06/26. Enlmt Age: 18 11/12. Disch Age: 19 6/12. Educ: HS DIPL . AFQT: N/A. A-61, E-94, G-84, M-87. PAFSC: 2A616 - Aircraft Electrical & Environmental Systems Helper. DAS: 97/08/04.

b. Prior Sv: (1) AFRes 97/06/13 - 97/06/17 (5 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 97/06/18 for 4 yrs. Svd: 0 Yrs 7 Mos 6 Das, of which AMS is 7 Mos 2 Das (Ex: 4 Das lost time).

b. Grade Status: None.

c. Time Lost: 25 Dec 97 - 28 Dec 97 (4 Days)

d. Art 15's: (1) 98/01/12, Sheppard AFB, Tx - Article 86. You did, on or about 25 Dec 97, without authority, absent yourself from your place of duty at which you were required to be, to wit: 364th Training Squadron, located at Sheppard Air Force Base, Texas, and did remain so absent until you returned on or about 29 Dec 97. Article 92. You did, from on or about 25 Dec 97 to on or about 29 Dec 97, fail to obey a lawful general instruction, to wit: Sheppard Air Force Base Instruction 36-2902, dated 15 Oct 97, paragraph 5.2.2, by wrongfully failing to remain in proper military uniform. You did, from on or about 25 Dec 97 to on or about 29 Dec 97, fail to obey a lawful general instruction, to wit: Sheppard Air Force Base Instruction 36-2902, dated 15 Oct 97, paragraph 5.2.3, by wrongfully using a Privately Owned Vehicle. Forfeiture of \$463.00 pay per month for 2 months with that portion in excess of forfeiture of \$231.00 pay per month for 2 months suspended, 45 days extra duty, and restriction to base for 45 days. (No appeal) (No mitigation)

(2) 97/12/18, Sheppard AFB, TX - Article 92. You, having knowledge of a lawful order issued by Colonel -----,

to wit: paragraph 6.3.3, Sheppard Air Force Base Instruction 36-2902, dated 25 Sep 96, an order which it was your duty to obey, did, on divers occasions from on or about 27 Nov 97 to on or about 30 Nov 97 fail to obey the same by wrongfully failing to return to and remain in your quarters from 2300 to 0400. Forfeiture of \$450.00 pay per month for two months, restriction to base for 45 days, and 45 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 5 JAN 98 - Violation of squadron policies and instructions by an NCO.
 LOR, 5 JAN 98 - Making a false official statement.
 AETC FM 341, 19 Dec 97 - Absent from dormitory room and no 341 on door.
 LOR, 10 DEC 97 - Smoking in room.
 AETC FM, 9 Dec 97 - Smoking in room.
 AETC FORM 341, 29 NOV 97 - Absent from building.
 LOR, 29 OCT 97 - Failure to report for physical conditioning, unsecured locker, smoking in dormitory room, failure to return to dormitory room after weekend, making a false official statement, sleeping in dormitory room while absent for physical conditioning, and failure to obey an order or regulation.
 RIC, 22 AUG 97 - Absent from physical conditioning
 AETC FM 341, 18 Aug 97 - Absent from physical conditioning.
- f. CM: None.
- g. Record of SV: None.
- (Discharged from Sheppard AFB)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (0) Yrs (7) Mos (7) Das
 TAMS: (0) Yrs (7) Mos (2) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/04/21.
 (Change Discharge to Honorable, Change Reason for Discharge, and Upgrade Reentry Code)

Issue 1: I feel that my discharge was improper due to the aid I gave to the Air Force O.S.I. pertaining to airmen using illegal drugs while in the military.

Issue 2: I feel that my discharge was improper due to my outstanding academic achievement while in A.I.T.

Issue 3: I feel that if given a second chance that I can make it up to my country and myself for the mistakes I've made in the past.

FD2002-0295

ATCH
None.

02/10/09/cr



DEPARTMENT OF THE AIR FORCE
AIR FORCE RECRUITING SERVICE (AETC)

FD2002-0295

21 Jan 98

MEMORANDUM FOR 782 TRG/CC

FROM: 82 TRW/JAC

SUBJECT: Legal Review, Recommendation for Discharge - [REDACTED]
364 TRS

1. We have reviewed this discharge case file and find it to be legally sufficient to support discharge. We recommend that you direct that the respondent be separated with a general discharge in accordance with AFI 36-3208, paragraph 5.49 (minor disciplinary infractions), without further opportunities for probation and rehabilitation.
2. The basis for this action is the squadron commander's administrative determination that the respondent has committed a series of minor disciplinary infractions. Specifically, the respondent wore civilian clothing outside while in Phase I on two occasions, absented himself from his place of duty, wrongfully failed to remain in proper military uniform, wrongfully used a privately owned vehicle on two occasions, failed to return and remain in his quarters on divers occasions, used tobacco products in his dormitory room on two occasions, failed to report to his appointed place of duty on two occasions, failed to remain on Sheppard AFB, failed to maintain his dormitory room in inspection order at all times, and failed to report to physical conditioning. The respondent received two Article 15s, four Letters of Reprimand, and one Record of Individual Counseling as a result of his misconduct. The basis for discharge is supported by a preponderance of evidence in the case file.
3. The respondent is 19 years old, began his enlistment on 18 Jun 97, and was assigned to his unit on 4 Aug 97. His academic test scores are above average. 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.
4. We note no administrative errors of legal significance, and we concur with the squadron commander's recommendation for a general discharge in this case.
5. If you have any questions regarding this matter, please contact [REDACTED] at ext 6-7184.

[REDACTED]
[REDACTED]
[REDACTED] USAF
Deputy Staff Judge Advocate

Attachment:
Case File

DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD2002-0295



1 6 JAN 1998

MEMORANDUM FOR [REDACTED] 364 TRS

FROM: 364 TRS/CC
511 9TH AVE STE 1
SHEPPARD AFB TX 76311-2338

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 Sheppard Air Force Base, Texas, on or about 2 Jan 98, violate a lawful general instruction, to wit: Sheppard AFB Instruction 36-2901, paragraph 5.2.2, by wearing civilian clothing outside while in Phase I. For this misconduct you received an LOR on 5 Jan 98.

b. You did, at or near Sheppard Air Force Base, Texas, on or about 31 Dec 97, violate a lawful general instruction, to wit: Sheppard AFB Instruction 36-2902, paragraph 2.1.12 and 5.2.2, by smoking and wearing civilian clothing outside while in Phase I. For this misconduct you received a Letter of Reprimand (LOR) on 5 Jan 98.

c. You did, on or about 25 Dec 97, without authority, absent yourself from your place of duty at which you were required to be, to wit: 364th Training Squadron, located at Sheppard Air Force Base, Texas and did remain so absent until on or about 29 Dec 97. For this misconduct and subparagraph "d" and "e" below, you received Article 15 punishment on 12 Jan 98.

d. You did, from on or about 25 Dec 97 to on or about 29 Dec 97, at Sheppard Air Force Base, Texas, fail to obey a lawful general instruction, to wit: Sheppard Air Force Base Instruction 36-2902, dated 15 Oct 97, paragraph 5.2.2, by wrongfully failing to remain in proper military uniform.

3. 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], Area Defense Counsel, at Bldg. 1638, Room 110 on 16 Jan 98 at 1500 hours. 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 22 Jan 98 unless you request and received an extension for good cause shown. I will send them to the separation authority.
5. 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.
6. You were scheduled for a medical examination on 18 Dec 97 at 1000 hours.
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 364 TRS Commander's Support Staff office.
8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED] USAF
 Commander
 364th Training Squadron

Attachments:

1. LOR, 5 Jan 98
2. LOR, 5 Jan 98
3. AF Form 3070, 12 Jan 98
4. Response to Article 15, 7 Jan 98
5. Memo, [REDACTED] 17 Dec 97
6. AF Form 1168, [REDACTED] 29 Dec 97
7. AETC Form 32, [REDACTED] 29 Dec 97
8. AF Form 2098, 30 Dec 97
9. AF Form 2098, 30 Dec 97
10. RPSC Rip, 6 Jan 98
11. AF Form 3070, 18 Dec 97
12. AF Form 1168, 9 Dec 97, [REDACTED]
13. AF Form 1168, 3 Dec 97, [REDACTED]
14. AF Form 1168, 3 Dec 97, [REDACTED]
15. AF Form 1168, 3 Dec 97, [REDACTED]
16. AF Corm 1168, 2 Dec 97, [REDACTED]
17. AF Form 1168, 2 Dec 97, [REDACTED]
18. AF Form 1168, 2 Dec 97, [REDACTED]