

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE	AFSN/SSAN
	AB	

TYPE GEN	X PERSONAL APPEARANCE	RECORD REVIEW
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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, A93.07, A93.01	INDEX NUMBER A67.10	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; text-align: center;">1</td> <td>ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center;">2</td> <td>APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center;">3</td> <td>LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">4</td> <td>BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td>COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td>TAPE RECORDING OF PERSONAL APPEARANCE HEARING</td> </tr> </tbody> </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 03-04-29	CASE NUMBER FD2002-0424																	

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, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER <i>[Signature]</i>	SIGNATURE OF BOARD PRESIDENT
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INDORSEMENT	DATE: 03-05-02
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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

FD2002-0424

GENERAL: The applicant appeals for upgrade of discharge to Honorable, to change the reason and authority for his discharge, and to change his reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB, MD on April 29, 2003.

The following additional exhibits were submitted at the hearing:

Exhibit 6 – Two Character Reference Letters

Exhibit 7 - Copy of a Divorce Decree

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are 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 discharge.

Issues. Applicant received an under honorable conditions (General) discharge for minor disciplinary infractions. He had two Records of Individual Counseling, three Letters of Reprimand, an Unfavorable Information File, two Articles 15, and vacation of a suspended reduction. His misconduct included numerous instances of being late to work and failure to go to his appointed place of duty, and absence without leave (AWOL) for 3 days. Applicant infers the discharge was too harsh due to his infractions being minor, although he did not dispute the occurrence of any of those infractions. He agreed he should have been punished for those offenses, which were due to his immaturity and poor judgment based on extenuating personal circumstances. He noted his otherwise satisfactory service and good post-service conduct. At the time of the discharge, applicant waived his right to submit statements in his own behalf. The Board recognized that applicant's marital problems may have had some bearing on his difficulties but found them insufficient mitigation for his misconduct. And while it is understandable that a member experiencing personal problems has additional stress, applicant's problems were not unique. Although he visited the Mental Health clinic, he was not diagnosed with any condition that hindered his ability to perform his duties, nor was there evidence he sought assistance from other available agencies such as the Chaplain, Family Support Center, or his chain of command. Because he was unable to separate his personal problems from his duties, he became an administrative burden to the unit, and was unable or unwilling to adjust his behavior. The Board noted applicant was the same age as other airmen who complete their enlistments without any misconduct, he knew right from wrong, and although given many opportunities, he failed to correct his negative behavior. Neither the record nor applicant's testimony offered a basis to substantiate an upgrade or to change his reenlistment code.

The applicant cited his desire to return to military service. While the Board commends applicant on this desire, and is sympathetic to the impact a General discharge has on his reenlistment code, this is not a matter of equity or propriety 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/change of reason for discharge, or to change the reenlistment code, 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) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 7 JAN 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the RE Code, and to Change the Reason and Authority for Disch.

2. **BACKGROUND:**

a. DOB: 14 Jul 82. Enlmt Age: 18 2/12. Disch Age: 19 5/12. Educ: HS DIPL. AFQT: N/A. A-72, E-72, G-78, M-65. PAFSC: 3C331 - Communications Computer Systems Plan and Implementation Apprentice. DAS: 25 Feb 01.

b. Prior Sv: (1) AFRes 28 Sep 00 - 9 Oct 00 (12 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 10 Oct 00 for 6 yrs. Svd: 1 Yrs 2 Mo 29 Das, of which AMS is 1 yr 2 months 26 days (excludes 3 days lost time).

b. Grade Status: AB - 04 Dec 01 (Article 15, 4 Dec 01)
AMN - 17 Oct 01 (Vacation of Article 15, 30 Oct 01)
A1C - 27 Nov 00

c. Time Lost: 17 Sep 01 thru 19 Sep 01 (3 days).

d. Art 15's: (1) 4 Dec 01, Davis-Monthan AFB, MT - Article 86. You did, on or about 13 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 4220. You did, on or about 21 Nov 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the Davis-Monthan AFB running track on Fifth Street at Comanche Street. Reduction to AB, 7 days restriction, and 7 days extra duty. (No appeal) (No mitigation)

(2) 30 Oct 01, Vacation, Davis-Monthan AFB, MT - Article 86. You did, on or about 18 Oct 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1540. Reduction to Amn. (No appeal) (No mitigation)

(3) 17 Oct 01, Davis-Monthan AFB, MT - Article 86. You did, on or about 17 Sep 01, without authority, absent yourself from your organization, to wit: the 355th Communications Squadron, and did remain so absent until on or about 19 Sep 01. Suspended reduction to Amn, 7

days restriction, and 7 days extra duty. (No appeal)
(No mitigation)

- e. Additional: LOR, 28 NOV 01 - Failure to go.
MFR, 18 OCT 01 - Late for duty.
LOR, 16 OCT 01 - Late for duty.
LOR, 14 JUN 01 - Failure to go, missed a mandatory
appointment, and late for work.
RIC, 11 JUN 01 - Failure to go to mandatory appointment.
RIC, 10 MAY 01 - Late for work and appointments.

f. CM: None.

g. Record of SV: None.

(Discharged from Davis-Monthan AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (3) Mos (7) Das
TAMS: (1) Yr (2) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Sep 02.

(Change Discharge to Honorable, Change the RE Code, and Change the Reason and Authority for Discharge)

Issue 1: I, -----, am hoping to get my General Discharge upgraded to Honorable. There was a couple of unfortunate circumstances that took place during my tenure at Davis Monthan Air Force Base. If you'll notice on my records, I had no history of trouble before Sept. 2001. I got a phone call from my wife in July 2001 saying that she wanted a divorce. This really came out of left field. For the following couple of months I tried to reconcile to no avail. I made an immature mistake and left my duty station for one day and turned myself in. Understanding that I had made a dumb mistake. A few minor infractions occurred (sic) after that. Myself, not knowing much about the Air Force decided it would be in my best interest to try and get out. Not thinking about the future, I proceeded to try and get out of the Air Force. I know that was the biggest mistake of my life. The Air Force is the only thing I know. I joined right after high school. All my activities at the end of my tenure were very immature, and not thought out. I sincerely apologize for my actions, and I am asking for one more opportunity to defend my country and pursue my career as an airman. Thank you.

ATCH
None.

15JAN03/ia

FD 2002-0424



DEPARTMENT OF THE AIR FORCE
355TH COMMUNICATIONS SQUADRON (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

DEC 19 2001

MEMORANDUM FOR AB 355 CS

FROM: 355 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically 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 may be characterized as honorable or under honorable conditions (general). I am recommending your service be characterized as general.

2. My reasons for this action are:

a. On or about 24 Apr 01, 25 Apr 01, and 30 May 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Record of Individual Counseling (RIC) (Tab A).

b. On or about 10 May 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received an RIC (Tab B).

c. On or about 13 Jun 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received a Letter of Reprimand (LOR) (Tab C).

d. On or about 17 Sep 01, you absented yourself from your organization and remained absent until on or about 19 Sep 01. As a result, you received punishment under Article 15 of the UCMJ and an Unfavorable Information File (UIF) was established (Tab D).

e. On or about 16 Oct 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received an LOR and an entry was made in your existing UIF (Tab E).

f. On or about 18 Oct 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received Vacation of Suspended Nonjudicial Punishment (VSNJP) (Tab F).

g. On or about 13 Nov 01, 14 Nov 01, and 21 Nov 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received punishment under Article 15 of the UCMJ (Tab G).

h. On or about 29 Nov 01, you failed to go at the time prescribed to your appointed place of duty. As a result, you received an LOR and an entry was made in your existing UIF (Tab H)

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 service will be 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 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, Capt [redacted] AFLSA/ADC, 228-5664, has been obtained to assist you. An appointment has been scheduled for you to consult her on 20 Dec 01 at 1200 hours in Bldg 3510. 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 26 Dec 01 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 Exams Office of the Aeromedical Facility, Bldg 400, Rm 163, at _____, on 11 Dec 01, for the examination.

8. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, Bldg 3200, Rm 20, at 1200 on 26 Dec 01 for the briefing. If you have questions, please call 228-5366.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. You may contact the Area Defense Counsel to obtain a copy of AFI 36-3208.

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

FOR THE COMMANDER

Capt, USAF Flight Commander, Mission Systems

Attachments:

1. Supporting Documents
 - a. RIC, 11 Jun 01 (2 pages)
 - b. RIC, 10 May 01 (2 pages)
 - c. LOR, 14 Jun 01 (2 pages) w/MFR, 18 Dec 01
 - d. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 17 Oct 01 (3 pages) w/Evidence (11 pages) and Response; AF Form 1137, UIF Summary
 - e. LOR, 16 Oct 01 (2 pages) w/Attachments (6 pages), AF Form 1137
 - f. AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, 30 Oct 01 (3 pages) w/Evidence (2 pages)
 - g. AF Form 3070, 4 Dec 01 (3 pages) w/Evidence and Response
 - h. LOR, 28 Nov 01 (2 pages) w/MFR, 18 Dec 01; AF Form 1137
2. Airman's Receipt of Notification Memorandum