

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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

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

| VOTE OF THE BOARD | | | | |
|-------------------|--|--|--|------|
| | | | | DENY |
| | | | | X |
| | | | | X |
| | | | | X |
| | | | | X |
| | | | | X |

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|----------------------------------|----------------------------|---------------------------------|--|--|
| ISSUES A92.37, A67.01, A94.53 | 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 03-04-21 | CASE NUMBER FD2002-0427 | 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 RATIONAL 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: _____

| | | |
|--|---|----------------|
| | INDORSEMENT | DATE: 03-04-23 |
| 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

FD2002-0427

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 was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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

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

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

Issues. Applicant was discharged for minor disciplinary infractions. He had two Articles 15, a Letter of Reprimand, and nine negative AETC Forms 341, "Excellence/Discrepancy Report." His misconduct included several instances of failure to go, two offenses of sleeping in class, two instances of using indecent language, loss of military bearing, and repeated failure to obey orders. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf in which he asked to be retained and apologized for his actions. The Board noted member did not dispute the occurrence of the infractions, and was given several opportunities to correct his behavior but was either unwilling or unable to do so. Member was the same age as other airmen who successfully complete their terms of service without any disciplinary infractions, and there was no evidence member didn't know right from wrong or was immature. Because he was responsible for his actions he was held accountable for them. The Board did not find sufficient mitigation to warrant an upgrade, and no inequity or impropriety was found in this discharge in the course of the records review.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 18 Jun 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and Change to Reentry Code, Reason and Authority.

2. **BACKGROUND:**

a. DOB: 14 Aug 83. Enlmt Age: 17 1/12. Disch Age: 18 10/12. Educ: HS DIPL. AFQT: N/A. A-74, E-71, G-68, M-49. PAFSC: 2E111 - Satellite Wideband Communications Systems. DAS: 15 Oct 01.

b. Prior Sv: (1) AFRes 29 Sep 00 - 20 Jun 01 (8 Mos 23 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 21 Jun 01 for 6 yrs. Svd: 0 Yrs 11 Mos 29 Das, all AMS.

b. Grade Status: AMN - 5 Apr 02 (Vacation of Article 15, 30 Apr 02)
A1C - 24 Aug 01

c. Time Lost: None

d. Art 15's: (1) 30 Apr 02, Vacation, Fort Gordon, GA - Article 92. You, who knew of your duties at or near Fort Gordon, Georgia, between on or about 9 Mar 02, were derelict in the performance of those duties in that you willfully failed to refrain from falling asleep in class, as it was your duty to do. Article 134. You, did, on or about 17 Apr 02, orally communicate to Airman ----, certain indecent language, to wit: "Shut the fuck up mother fucker." Reduction to the grade of AMN. (No appeal) (No mitigation)

(2) 5 Apr 02, Fort Gordon, GA - Article 86 - You, did, on or about 11 Feb 02, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 13 Feb 02, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 14 Mar 02, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 29 Mar 02, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to the grade of AMN, and forfeiture of \$289.00 pay. (No appeal) (No mitigation)

- e. Additional: AETC FM 341, 02 MAY 02 - Failure to report for formation.
AETC FM 341, 17 APR 02 - Indecent language.
AETC Fm 341, 02 Apr 02 - Late for formation.
AETC FM 341, 29 MAR 02 - Marching with expired waiver in waiver flight and not in possession of waiver.
AETC FM 341, 29 MAR 02 - Missed mandatory formation.
AETC FM 341, 29 MAR 02 - Loss of military bearing.
AETC FM 341, 19 MAR 02 - Late for formation.
AETC FM 341. 14 MAR 02 - Missed formation and late for PC.
AETC FM 341, 09 MAR 02 - Sleeping in class
LOR, 22 FEB 02 - Repeated failure to obey orders.

f. CM: None.

g. Record of SV: None.

(Discharged from Shaw AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yr (8) Mos (21) Das
TAMS: (0) Yr (11) Mos (29) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 Aug 02.
(Change Discharge to Honorable, and Change Reentry Code, Reason and Authority)

Issue: I would (sic) to have my discharge reviewed to see if I can receive a re-entry code upgrade so that can (sic) finish serving my country in the United States Navy.

ATCH

1. Applicant's Comments.

15Jan03/cr



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

MEMORANDUM FOR AMN [REDACTED]

FROM: DET 1, 338 TRS/CC

SUBJECT: Notification Memorandum

May 15, 2002

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, Chapter 5, Section H, paragraph 5.49. If my recommendation is approved, your discharge will be described as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 30 Apr 02, your Article 15, UCMJ, suspended punishment was vacated for the following infractions:

i. Between on or about 9 Mar 02, and 9 Apr 02, you were derelict in the performance of your duties by falling asleep in class. (Atch 1, Appendix A w/atchs)

ii. On or about 17 Apr 02, you orally communicated to Airman [REDACTED] certain indecent language, to wit: "Shut the fuck up mother fucker." (Atch 1, Appendix A w/atchs)

b. On 5 Apr 02, you received Article 15, UCMJ, punishment for the following infractions:

i. On 11 Feb 02, you failed to go at the time prescribed to your appointed place of duty, to wit: mandatory formation at Building 25702. (Atch 1, Appendix B w/atchs)

ii. On 13 Feb 02, you failed to go at the time prescribed to your appointed place of duty, to wit: mandatory formation at Building 25702. (Atch 1, Appendix B w/atchs)

iii. On 14 Mar 02, you failed to go at the time prescribed to your appointed place of duty, to wit: mandatory formation at Building 25702. (Atch 1, Appendix B w/atchs)

iv. On 29 Mar 02, you failed to go at the time prescribed to your appointed place of duty, to wit: mandatory formation at Building 25702. (Atch 1, Appendix B w/atchs)

c. On 2 Apr 02, you were late to formation as noted by A1C Hartson on AETC Form 341, dated 2 Apr 02. (Atch 1, Appendix C)

d. On 29 Mar 02, you marched in the waiver flight with an expired waiver as noted by A1C [REDACTED] on AETC Form 341, dated 29 Mar 02. (Atch 1, Appendix D)

e. On 29 Mar 02, you failed to obtain your military bearing by slamming a door as noted by SSgt [REDACTED] on AETC Form 341, dated 29 Mar 02. (Atch 1, Appendix E)

f. On 19 Mar 02, you were late to formation as noted by [REDACTED] on AETC Form 341, dated 19 Mar 02. (Atch 1, Appendix F)

g. On 22 Feb 02, you received a Letter of Reprimand for the following infractions:

i. On 14 Feb 02, after being directed to report to the dental clinic by [REDACTED] you failed to return to the dental clinic for a later appointment as directed by dental clinic personnel. (Atch 1, Appendix G w/atchs)

ii. On or about 19 Feb 02, you failed to perform your clean up as instructed by [REDACTED] and you were observed marching in formation while holding a cup. (Atch 1, Appendix G w/atchs)

iii. On or about 20 Feb 02, you failed to maintain your room as prescribed by the 2d Air Force Phase Program as noted by [REDACTED]. (Atch 1, Appendix G w/atchs)

h. On 2 May 02, you failed to report to the 1530 hours formation as noted by [REDACTED] on ATEC Form 341, dated 2 May 02. (Atch 1, Appendix 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 higher 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. Any special pay, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel is available to assist you. You can call the Keesler ADC at DSN 597-2429. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 20 MAY 02 by 1630 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 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 Connelly Clinic, Physical Exams, room 108 on 17 May, 2002 at 06:30 hours for the examination.

You must report in PT gear, have your medical records, and take your glasses if you wear them. No contact lenses. You are to have nothing but water from 19:00 hours the evening prior.

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 Bldg 25702 CQ.

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

Attachments:

1. Supporting Documents
 - a. AF Form 366, dated 30 Apr 02 w/atchs
 - b. AF Form 3070, dated 7 Feb 02 w/atchs
 - c. AETC Form 341, dated 2 Apr 02
 - d. AETC Form 341, dated 29 Mar 02;
 - e. AETC Form 341, dated 29 Mar 02;
 - f. AETC Form 341, dated 19 Mar 02
 - g. Letter of Reprimand, dated 22 Feb 02 w/atchs
 - h. AETC Form 341, dated 2 May 02
2. Airman's Receipt of Notification Memorandum
3. Airman's Statement
4. Medical Examination

ATCH 1