

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] | GRADE A1C | AFSN/SSAN [REDACTED] |
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| TYPE HON | PERSONAL APPEARANCE | X RECORD REVIEW | | | | |
| COUNSEL | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px; text-align: center;">X</td> </tr> </table> | YES | NO | | X | | |
| YES | NO | | | | | |
| | X | | | | | |

| MEMBERS SITTING | VOTE OF THE BOARD | | | | |
|-----------------|-------------------|-----|-------|-------|----------|
| | HON | GEN | UOTHC | OTHER | DENY |
| | | | | | X |
| | | | | | X |
| | | | | | X |
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| ISSUES A01.07, A01.13, A93.17 | INDEX NUMBER A66.00 | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="background-color: #cccccc; padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 20px; text-align: center; padding: 2px;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="text-align: center; padding: 2px;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="text-align: center; padding: 2px;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center; padding: 2px;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 2px;">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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| | TAPE RECORDING OF PERSONAL APPEARANCE HEARING | | | | | | | | | | | | | | | | | |
| HEARING DATE 03-05-16 | CASE NUMBER FD2002-0517 | | | | | | | | | | | | | | | | | |

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 a personal appearance with/without counsel.

DD Fm 149 submitted. The case will be forwarded to the AFBCMR for further processing.

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| SIGNATURE OF RECORDER | SIGNATURE OF BOARD PRESIDENT |
|---------------------------|----------------------------------|

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| ENDORSEMENT | DATE: 03-05-19 |
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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

FD2002-0517

GENERAL: The applicant appeals to change the reason and authority for his discharge.

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: Change of reason and authority for the discharge are denied.

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

Issues. Applicant was discharged for misconduct, namely drug abuse. He received an Honorable service characterization due to having self-identified as a drug abuser and there being no other derogatory information against member. Applicant advises during a period of depression he fell into drug and alcohol abuse, but decided to seek treatment when the substance abuse was getting out of control. Member admitted using cocaine three times while on active duty to his mental health providers and was also diagnosed alcohol dependent. He successfully completed an in-patient treatment program and had hopes of being retained. Although applicant concedes he signed his DD Form 214 discharge documents acknowledging his discharge reason as misconduct, he didn't realize the full effect of doing so and the negative impact it would have; he also believed he was being discharged for "convenience of the government." The record shows that at the time of the discharge member consulted counsel and waived his right to submit statements in his own behalf. Furthermore, member did not request he be considered for retention at the time of the discharge, and had he, the burden would have been his to show he met the seven retention criteria. The Air Force's drug policy was well publicized and members were continually made aware that illegal drug use was not tolerated. The Board noted that drug abuse is not compatible with Air Force standards; although member self-identified, the seriousness of member's misconduct warrants the discharge for misconduct he received. The Board could find no inequity or impropriety on which to base a change of discharge reason or authority.

Applicant states his defense counsel and others in the Air Force told him that if he completed 30 months service and received an honorable characterization of service, he would be discharged for "convenience of the service," thus allowing him to retain access to Montgomery G.I. Bill education benefits. Chapter 30 of Title 38, U.S. Code provides that in order to use these benefits after separation, a member must have served 3 years, unless separated early for certain reasons, one of which is "convenience of the government," in which case they must only have served 30 months. Misconduct and / or drug abuse are not among the reasons for early separation under which only 30 months' service is required in order to use these benefits. The records review disclosed no documentary evidence to substantiate that applicant was told he would be discharged for "convenience of the government." In fact, the letter of notification clearly shows that the reason for discharge is "specifically drug abuse," and applicant acknowledged receipt and understanding of that notification. In the absence of documentary evidence to the contrary, the Board could find no impropriety in this regard and finds the issue without merit.

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 A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a HON Disch fr USAF 24 MAY 01 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Change in Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 9 Nov 76. Enlmt Age: 21 9/12. Disch Age: 24 6/12. Educ: HS DIPL. AFQT: N/A. A-87, E-54, G-55, M-18. PAFSC: 2E633 - Telephone Systems Apprentice. DAS: 25 Sep 00.

b. Prior Sv: (1) AFRes 14 Aug 98 - 17 Nov 98 (3 months 4 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 Nov 98 for 4 yrs. Svd: 2 Yrs 6 Mos 6 Das, all AMS.

b. Grade Status: A1C - 18 Mar 00
AMN - Unknown.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 26 APR 01 - Admitted use of cocaine use to health provider.

f. CM: None.

g. Record of SV: 18 Nov 98 - 17 Jul 00 Osan AB 5 (Initial)

(Discharged from Davis-Monthan AFB)

h. Awards & Decs: AFTR, AFOSSTR.

i. Stmt of Sv: TMS: (2) Yrs (9) Mos (11) Das
TAMS: (2) Yrs (6) Mos (6) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 18 Oct 02.
(Change Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Personal Statement.
2. Disabled Veterans Correspondence.
3. DD Form 149.
4. VA Form 21-22.
5. Seven Letters of Support.
7. Recovery Plan.
8. DD Form 214.

25FEB03/ia

PERSONAL STATEMENT

10-08-02

From: [REDACTED]

To whom it may concern:

In hopes of furthering my education, become a productive member of society and a man; I joined the United States Air Force on November 18, 1998. My grandfather who served his country distinguishably in the Army during WWII, and my older brother (U.S. Navy) were my role models, and helped motivate me to do the right thing and serve my country.

When I enlisted I was fortunate to receive a guaranteed job from my recruiter, and upon completing Basic Military Training on December 31, 1998 I attended:

- Training School at Lackland AFB in San Antonio, Texas where I studied Electronic Principles, and received 13 Community College hours.
- Training School at Sheppard AFB in Wichita Falls, Texas where I studied in Telephone Systems, and received 21 Community College hours.

At both of these schools and on the job training, I received superior training from my instructors. I always followed orders, was always respectful to my superior officers, and got along with my fellow enlisted serviceman. I became a Telephone Systems Apprentice (2E633) and on September 5, 1999 I was sent to Osan Air Base, Republic of Korea until September 5, 2000. There I continued my telephone training and was awarded a five (5) (highest mark an airman could get) on my first and only Enlisted Performance Report, and was recommended for immediate promotion. On September 26, 2000 I was assigned to Davis-Monthan AFB in Tucson, Arizona until May 24, 2001.

My responsibilities as a Telephone Systems Apprentice entailed circuits, telephone instruments, electronic telephone systems, digital telephone switch systems, associated line equipment, special circuits such as intrusion alarms, data transmissions, and intercom units, along with command and control circuits. I learned how to interpret service orders, sketches, drawings, and how to fully understand a circuit by working with low-voltage equipment. I gained customer service skills by coordinating telephone installations and repair activities with the appropriate subscriber agencies and organizations. I performed all job assignments from preventive maintenance inspections to troubleshooting on digital switches. I was awarded the basic military training ribbon, short-tour service ribbon (Korea), and a Letter of Appreciation from the Mustang Valley Project in Korea. Until my discharge I had a secret security clearance. Today, because of the valuable training I received in the United States Air Force, I am employed in telecommunications.

As well as things were going for me; I fell into a state of depression (due to a past devastating personal loss), which led to my alcohol and substance abuse problem. I knew that my problem was getting out of control, so I decided to seek help. I read in an Air Force manual that serviceman with substance abuse problems were encouraged to seek treatment. I self identified and on February 2000 I was sent to Camp Pendleton, California where I received treatment. I successfully completed the program, and was placed on a one-year recovery (see attachment #12) plan, which I never was allowed to complete.

Upon my return to Davis-Monthan, my superiors informed me that I would be discharged. I was devastated, knowing what I had done was a major mistake, but I was still hoping that the U.S. Air Force would take into consideration my efforts to deal with my problems and retain me. I was willing to suffer whatever punishment handed me, and would have become an airman basic again, if the Air Force had retained me. Unfortunately, that was not to be the case, and though I was never charged, tried or convicted in any court, on May 24, 2000 I was honorably discharged.

My attorney ([redacted]), during all the proceedings had stated to me, and the Air Force had informed persons who were helping me ([redacted]), that if I received an honorable discharge, and completed 30 months required service, that I would be discharged for, "convenience of the government," and retain my Montgomery G.I. Bill benefits. The stated agreement was changed and the U.S. Air Force's official position is, that I was discharged for "misconduct," because I willingly signed a DD Form 214 with said charge. I admit to signing the DD Form 214 with the charge of "misconduct," but my reason(s) for signing it was because I was counseled, advised and assured by my Attorney, [redacted] and Air Force Education Officer, [redacted] that I was being discharged for, "convenience of the government." If [redacted] or [redacted] had informed me otherwise, I would have never signed the DD Form 214 with the misconduct charge.

In appealing to you for an upgrade, I want to state that due to individual(s) Air Force official(s) circumventing the agreement to discharge me for "convenience of the government," that the process to have this matter corrected (with the help of many individuals, especially [redacted] has taken over one year, disrupted my life, education and has caused me extreme financial hardship. I am twenty-five years of age, work full time, attend Southwestern Community College part time, but due to the outrageous cost of living in San Diego I live with my parents. Aside, from working full time, attending College etc., I want to proudly state (due to my religion beliefs) that I have been substance abuse and alcohol free for one year and eight months! Looking back, I am fully cognizant (beyond anybody's comprehension) of what my regrettable actions (which I have to live with for the rest of my life) have caused. I disgraced the U.S. Air Force, my family and myself, but I have tried to change as the enclosed letters (testifying to my character) from persons who care about me, affirm.

In closing, I am hoping that upon reviewing my appeal you will see fit to correct and rectify the gross injustice done against me by the U.S. Air Force. Further, that you upgrade my narrative reason of separation, and restore (especially my Montgomery G.I. bill) all of my veteran's benefits so I can continue my education, to improve and better myself so I can become a productive member of my community and country.

Thank you in advance for your time, efforts and patience in reviewing my appeal.

Sincerely,

[redacted signature]

CC: [redacted]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS TWELFTH AIR FORCE (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

7 MAY 01

MEMORANDUM FOR [REDACTED]

FROM: 612 ACOMS/CC


SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically drug abuse. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable.
2. My reason for this action is that on or about 7 Feb 01, you voluntarily disclosed to a mental health provider that you had used cocaine in January 2001. As a result, you received a Letter of Reprimand (LOR) (Tab 1).
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 may be subject to recoupment.
4. You have the right to consult counsel. Military legal counsel, the Area Defense Counsel, [REDACTED] Bldg 3510, at 228-5664, has been obtained to assist you. An appointment has been scheduled for you to consult him on 8 MAY at 1400 hours. In addition to military counsel, you have the right to employ 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 10 MAY 2001 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 1230, on 9 MAY, for the examination. x2731

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 0900, on 8 MAY 2001, for the outprocessing briefing.
9. 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 at the Area Defense Counsel's office, Bldg 3510.
10. Execute the attached acknowledgment and return it to me immediately.


Commander USAF

Attachments:

1. Supporting Documents
LOR, 26 Apr 01 (2 pages); Summary of Treatment on , 19 Apr 01; LOR Response, 1 May 01 (2 pages)
2. Airman's Receipt of Notification Memorandum