

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE A1C	AFSN/SSAN ██████████
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TYPE	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE		RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No			
	<input checked="" type="checkbox"/>			

MEMBER SITTING	TYPE OF DECISION				
	HON	GEN	UOTHC	OTHER	DENY
	X+				
					X
					X
	X+				
	X+				

ISSUES A94.06	INDEX NUMBER A67.10	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 DATE 04 Dec 2003	CASE NUMBER FD-2003-00031	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE.

Case heard at Randolph AFB, Texas.

*Change reason and authority to Secretarial Authority.

Advise applicant of the decision of the Board.

ENDORSEMENT	
TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00031

GENERAL: The applicant appeals for upgrade of discharge to Honorable.

The applicant appeared before the Discharge Review Board (DRB) at Randolph AFB, Texas on 4 December 2003. Also present as a witness, on behalf of the applicant, was the applicant's mother, [REDACTED]

The applicant presented the following additional evidence at the hearing:

Exhibit #6 Hallmark Institute Enrollment Agreement, dated 21 November 2003.

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

FINDINGS: Upgrade of discharge to Honorable is approved.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant was discharged as a result of an Article 15, four Letters of Counseling, and one Letter of Reprimand for a series of minor disciplinary infractions. Applicant's legal counsel asked the discharge authority to change the reason for the applicant's discharge to "Unsatisfactory Duty Performance". However, the DRB found no direct correlation with the applicant's episodes of misconduct with his mental or physical capacity to perform his duties. However, the applicant offered plausible mitigating testimony to explain the cause of most of his infractions, for which he fully admits committing and taking full responsibility. For example the applicant's use of a metallic device (screw driver) to remove an aircraft wing fitting was not an uncommon practice exercised by other members of his unit, without incurring the disciplinary actions taken against the applicant. Secondly, the applicant presented a believable explanation of the events of 3 January 2003 that resulted in his Article 15, due to a near automobile accident (reckless driving) while exiting a parking lot onto a snow-covered roadway. Although the applicant committed the aforementioned offenses, among other minor offenses, the Board opined the decision to discharge the applicant with a General (under Honorable conditions) may have been premature and, thus, was too harsh.

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. However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the Reason and Authority for discharge should be changed to Secretarial Authority under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
 AIR FORCE DISCHARGE REVIEW BOARD
 ANDREWS AFB, MD

MISSING MEDICAL RECORDS

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 17 May 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 12 Feb 78. Enlmt Age: 20 8/12. Disch Age: 24 3/12. Educ: HS DIPL. AFQT: N/A. A-60, E-50, G-46, M-53. PAFSC: 2A654 - Aircraft Fuel Systems Journeyman. DAS: 15 Nov 00.

b. Prior Sv: (1) AFRes 13 Oct 98 - 27 Oct 98 (15 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 28 Oct 98 for 6 yrs. Svd: 3 Yrs 6 Mos 20 Das, all AMS.

b. Grade Status: A1C - 13 MAR 02 (Article 15, 13 Mar 02)
 SRA - 26 APR 01
 A1C - 26 DEC 98

c. Time Lost: None.

d. Art 15's: (1) 13 Mar 02, Misawa AB, Japan - Article 92. You, who knew or should have known of your duties, on 3 Jan 02, were derelict in the performance of those duties in that you willfully failed to maintain proper liability insurance on your vehicle, as it was your duty to do. You, who knew or should have known of your duties, on 3 Jan 02, were derelict in the performance of those duties in that you willfully failed to have a drivers license in your possession while operating a motor vehicle, as it was your duty to do. Article 111. You, did, on 3 Jan 02, near building 673, physically control a vehicle, to wit: a passenger car, in a reckless manner by backing into on-coming traffic and did thereby cause said vehicle to come within inches of striking two passenger vehicles. You, did, on 3 Jan 02, near building 671 and 672, physically control a vehicle, to wit: a passenger car, in a reckless manner by traveling at a high rate of speed and running a posted stop sign and did thereby cause said vehicle to strike a snow bank and become airborne. Reduction to A1C. (No appeal) (No mitigation)

(2) 15 Jul 99, Moody AFB, GA - Article 128. You did, on or about 22 May 99, unlawfully strike A1C ----- in the stomach with your fist. Suspended reduction to AB, and

14 days extra duty. (No appeal) (No mitigation)

(3) 19 Mar 99, Sheppard AFB, TX - Article 92. You did, on or about 5 Mar 99, violate a lawful general instruction, to wit: para 2.1.8, Sheppard AFB Instruction 36-2902 dated 15 Oct 97, by wrongfully entering a local area motel. You did, on or about 5 Mar 99, violate a lawful general instruction, to wit: para 2.4, Sheppard AFB Instruction 36-2902 dated 15 Oct 97, by wrongfully failing to sign out of squadron. You did, on or about 5 Mar 99, violate a lawful general instruction, to wit: para 5.2.1, Sheppard AFB Instruction 36-2902 dated 15 Oct 97, by wrongfully leaving the limits of Sheppard AFB, TX. You did, on or about 5 Mar 99, violate a lawful general instruction, to wit: para 5.2.5, Sheppard AFB Instruction 36-2902 dated 15 Oct 97, by wrongfully failing to return to and remain in your assigned dormitory from 2100 to 0400. Forfeiture of \$200.00 pay, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 18 MAR 02 - Failure to follow maintenance instructions.

RIC, 08 FEB 02 - Failure to go.

RIC, 29 JAN 02 - Failure to obey a lawful order.

RIC, 01 AUG 01 - Failure to obey an order.

LOR, 02 FEB 01 - Absent from place of duty without proper authority and lying to supervisor.

f. CM: None.

g. Record of SV: 28 Oct 98 - 27 Jun 00 Moody AFB 3 (Initial)
28 Jun 00 - 27 Jun 01 Misawa AB 3 (Annual)

(Discharged from Misawa AB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (3) Yrs (7) Mos (5) Das

TAMS: (3) Yrs (6) Mos (20) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 15 Jan 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED

ATCH
None.

18Mar03/cr



FD2003-00031

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

MEMORANDUM FOR A1C [REDACTED], 35 MXS

25 APR 2002

FROM: 35 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct – Minor Disciplinary Infractions, in accordance with AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, 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. On 1 Feb 01, you were absent from your place of duty without proper authority. For this misconduct, you received a Letter of Reprimand (LOR).
 - b. On 26 Jul 01, you failed to comply with a lawful order by not maintaining your mobility gear per regulations. For this misconduct, you received a Letter of Counseling (LOC).
 - c. On 3 Jan 02, you were derelict in the performance of your duties in that you willfully failed to maintain proper liability insurance on your vehicle, and willfully failed to have a drivers license in your possession while operating your vehicle. Also, on 3 Jan 02, you drove a passenger car in a reckless manner by backing into on-coming traffic, causing the vehicle to come within inches of striking two passenger vehicles. You continued to drive recklessly by traveling at a high rate of speed and running a posted stop sign, causing the vehicle to strike a snow bank and become airborne. For these incidents of misconduct, you received an Article 15 and an Unfavorable Information File (UIF) was established.
 - d. On 29 Jan 02, after being directed to bring your Mobility records and Training records to work, you reported to work without your records. For this misconduct, you received a second LOC.
 - e. On 29 Jan 02, you failed to go to your scheduled military training appointment. For this misconduct, you received a third LOC.
 - f. On 10 Mar 02, you performed maintenance on A/C 802 without following the proper T.O. instructions. For this misconduct, you received a fourth LOC.

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 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 [REDACTED], the Area Defense Counsel, at Building 514, on 25 Apr, 2002, at 0900 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 within three workdays of your receipt of this Notification Memorandum, unless you request and receive an extension for good cause. I will forward them to the separation authority.
6. If you fail to consult counsel or to submit statements in your own behalf within the time allotted, your failure shall constitute a waiver of your right to do so.
7. You have been scheduled for a medical examination. You must report to the 35th Medical Group, on 01 May, 2002, at 1400 hours. If you wear glasses, you must bring your glasses to the examination. If you wear contacts, you must remove them the night before the examination.
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 at the Office of the Area Defense Counsel, Building 514, your orderly room, or the Base Publications Library.
9. Execute the attached acknowledgment and return it to me immediately.

[REDACTED] Lt Col, USAF
Commander, 35th Maintenance Squadron

Date 25 Apr 02

Attachments:

1. Airman's Receipt of Notification Memorandum
2. LOR, dated 2 Feb 01
3. LOC, dated 1 Aug 01
4. Article 15, dated 13 Mar 02
5. LOC, dated 29 Jan 02
6. LOC, dated 8 Feb 02
7. LOC, dated 18 Mar 02