

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]
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TYPE	PERSONAL APPEARANCE	X 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	UOHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X

ISSUES A93.09	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 15 Jul 03	CASE NUMBER FD2003-0108	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 [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 15 Jul 03
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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

FD03-0108

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

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: Applicant believes her discharge was too harsh because her problems stemmed for getting a new supervisor and because her mother was terminally ill. The record indicates the applicant received two Articles 15, both for willfully failing to complete her duties. She also received three Letters of Reprimand and one Letter of Counseling for being late for work, failure to perform her duties, failure of her CDC test, insubordination, and assault. The DRB was sympathetic to the impact the loss of her mother had on her, but this is not a matter of inequity or impropriety that would warrant an upgrade. The member knew right from wrong. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the discharge.

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 AB) (HGH AMN)

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

2. **BACKGROUND:**

a. DOB: 18 Jan 82. Enlmt Age: 18 8/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-55, E-38, G-32, M-29. PAFSC: 3S031 - Personnel Apprentice. DAS: 24 Feb 01.

b. Prior Sv: (1) AFRes 29 Sep 00 - 4 Oct 00 (6 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 5 Oct 00 for 4 yrs. Svd: 1 Yr 3 Mos 13 Das, all AMS.

b. Grade Status: AB - 31 Oct 01 (Vacation, Article 15, 2 Jan 02)
AMN - 5 Apr 01

c. Time Lost: None

d. Art 15's: (1) 2 Jan 02, Dyess AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 26 Nov 01, were derelict in the performance of those duties in that you willfully failed to scheduled the Physical Health Assessment appointments with the Medical Group, as it was your duty to do. Reduction to AB. (No appeal) (No mitigation)

(2) 31 Oct 01, Dyess AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 11 Oct 01, were derelict in the performance of those duties in that you willfully failed to complete the Urinalysis Notification List and fax it back to Drug and Awareness, as it was your duty to do. Suspended reduction to AB, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 28 NOV 01 - Assault.
LOR, 02 OCT 01 - Insubordination by arguing with a commissioned officer.
LOR, 02 OCT 01 - Failure of CDC test.
LOC, 19 SEP 01 - Late for work and failure to perform duties.

f. CM: None.

g. Record of SV: None.

(Discharged from Dyess AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (3) Mos (20) Das

TAMS: (1) Yr (3) Mos (13) Das

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

Issue 1: For about 6 months while I was at Dyess, until the supervision of MSgt [REDACTED] I never recieved (sic) any misconduct forms. Thereafter Lt Stevens arrived it seemed everytime (sic) I turned around I was receiving LOR and LOCs.

Issue 2: My mother was terminally ill with cancer, and was on her death bed around the time I was discharged. I had used all of my emergency leave on her, so the time she died, or around the time she was about to pass I was in (sic) still not able to go spend anytime with her while she was passing, so I asked for a discharge.

Issue 3: If I would have stayed in a little bit longer, or my mom wouldn't have passed that quickly I would have received a honorable discharge. But there was no way I could have stayed and focused on my job with her being dead.

ATCH

1. Congressional Letter.

17Apr03/cr



FD2003-00108

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 7TH BOMB WING (ACC)
DYESS AIR FORCE BASE TEXAS

4 JAN 02

MEMORANDUM FOR AB [REDACTED]

FROM: 28 BS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct - Minor Disciplinary Infractions. The authority for this action is AFI 36-3208, paragraph 5.49, dated 14 Oct 94. If my recommendation is approved, your service will be characterized as Honorable or General. I am recommending that your service be characterized as General (Under Honorable Conditions).

2. My reasons for this action are:

a. You were, on 26 Nov 01, derelict in the performance of your duties in that you failed to schedule the Physical Health Assessment appointments with the Medical Group, for which your suspended reduction in rank was vacated, as evidenced by AF Form 366, dated 2 Jan 02 *KS*

b. You did, on 3 Nov 01, push AIC [REDACTED] with sufficient force to knock him off balance, for which you were reprimanded, as evidenced by LOR, dated 28 Nov 01.

c. You were, on 11 Oct 01, derelict in the performance of your duties in that you willfully failed to complete the Urinalysis Notification List and fax it back to Drug and Awareness, for which you received Article 15 punishment, as evidenced by AF Form 3070, dated 31 Oct 01.

d. You did, on 1 Oct 01, displayed an insubordinate attitude towards ILT [REDACTED] in that you argued with Lt [REDACTED] after being given an assignment to work on, for which you were reprimanded and entered into the unfavorable information file, as evidenced by LOR, dated 2 Oct 01, and AF Form 1058, dated 5 Oct 01.

e. You did, on 19 Sep 01, without authority, report late for duty. In addition, you were, on 19 Sep 01, derelict in the performance of your duties in that you did not perform your cleaning duties for the day. For this misconduct you were counseled, as evidenced by LOC, dated 19 Sep 01.

f. You were, on 23 Aug 01, derelict in the performance of your duties in that you failed your first set of CDC because you got bored and gave up half way through the test, for which you were reprimanded, as evidenced by LOR, dated 2 Oct 01.

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 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.

3. 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 Capt [REDACTED] Area Defense Counsel, 397 Third Street, Dyess AFB, TX, DSN 461-4233, Commercial (915) 696-4233, on 7 Jan 02 at 0900 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 9 Jan 02, 0800 hours, unless you request and receive 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 have been scheduled for a medical examination on 10 Jan 02, at 1030 hours, at the 7th Medical Group Hospital.
7. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFPD 36-32 and AFI 36-3208 is available for your use in the orderly room.
8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]
[REDACTED]
[REDACTED] Lt Col, USAF
Commander, 28 BS

Attachments:

1. Airman's Receipt of Letter of Notification
2. AF Form 366 w/presentation
3. Sworn Statements from AB Amber Kite; SSgt [REDACTED] L [REDACTED] And SSgt [REDACTED]
4. E-Mail Message from Amn [REDACTED] dated 21 Nov 01
5. LOR, dated 28 Nov 01
6. AF Form 3070, dated 31 Oct 01 w/response
7. Punishment Status In Event of Emergency Leave
8. Sworn Statements from Amn [REDACTED] AIC [REDACTED] Amn [REDACTED] and Lt [REDACTED]
9. LOR, dated 28 Nov 01
10. LOR, dated 2 Oct 01
11. AF Form 1058, dated 5 Oct 01
12. LOC, dated 19 Sep 01
13. LOR, dated 2 Oct 01