

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]		GRADE AB	AFSN/SSAN [REDACTED]		
TYPE	PERSONAL APPEARANCE		X RECORD REVIEW		
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	
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
[REDACTED]					X
ISSUES A93.01		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
HEARING DATE 18 Jul 03		CASE NUMBER FD2003-00121			
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]		
INDORSEMENT				DATE: 18 JUL 03	
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

GENERAL: The applicant appeals for upgrade of discharge to Honorable, change of reason for discharge, and change of reenlistment eligibility (RE) code.

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, change of reason for discharge and change of RE code are denied.

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

The applicant's issues are listed in the attached brief.

Issue. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 18 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 and change of RE 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

[REDACTED]
[REDACTED]

(Former AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 25 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: 20 Oct 83. Enlmt Age: 17 0/12. Disch Age: 18 8/12. Educ:HS DIPL. AFQT: N/A. A-63, E-67, G-53, M-47. PAFSC: 1C631 - Space Systems Operations Apprentice. DAS: 28 Jan 02.

b. Prior Sv: (1) AFRes 31 Oct 00 - 9 Jul 01 (8 Months 9 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 10 Jul 01 for 6 yrs. Svd: 0 Yrs 11 Mos 16 Das, all AMS.

Grade Status: Examiner's Note: As a 6-yr enlistee, the applicant should have been promoted to A1C upon completion of Technical Training School. The system indicates he may have been promoted to A1C. However, there is no documentation to confirm the promotion occurred which indicates the promotion in-system may have been an administrative error. Furthermore, the grade reflected in LORs, DD Form 214, Legal Review, and Commander's recommendation is that of Airman Basic.

c. Time Lost: None

d. Art 15's: (1) 22 Jan 02, Vandenberg AFB, CA - Article 92. You, who knew of your duties, on or about 4 Jan 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol in the dormitory or immediate surrounding area, as it was your duty to do. You, who knew of your duties, on or about 4 Jan 02, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol as a minor, as it was your duty to do. Forfeiture of \$552.00 pay per month for 2 months, with suspended forfeiture of amount exceeding \$250.00 pay per month for 2 months. (No appeal) (No mitigation)

e. Additional: LOR, 20 JUN 02 - Underage drinking, disorderly in a public place, and displaying drunkenness by exhibiting provoking speeches and gestures through harrassment.

LOR, 15 MAY 02 - Underage drinking, driving under the influence of alcohol, carrying an

unauthorized concealed weapon, and failure to have auto insurance.

LOR, 05 APR 02 - Underage drinking and disorderly in a public place.

LOR, 22 OCT 01 - Underage drinking.

f. CM: None

g. Record of SV: None

(Discharged from Schriever AFB)

h. Awards & Decs: AFTR, NDSM, USAF BMT HGR.

i. Stmt of Sv: TMS: (1) Yrs (7) Mos (26) Das
TAMS: (0) Yrs (11) Mos (16) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 14 Mar 03
(Upgrade Discharge to Honorable, and Change Reentry Code, Reason and Authority)

Issue 1: I believe my discharge should be upgraded to honorable for several reason. I joined the military at the very young age of 17. I believe I was young and made some immature decision. I lost the woman I was going to marry, and my unborn child in a car accident. I turned to alcohol to help ease the pain.

Issue 2: I eventually got caught underage drinking. After several times getting caught, I was discharged under AFI 5.49 (sic) minor misconduct. I am not making excuses. I take responsibility for my actions. I feel that I have grown up in the last year. I wish to get my discharge upgraded so I can be a Marine. I wish to serve my nation again.

Issue 3: If you look at my record on my Certificate of Release from Active Duty, you can see I am an honor graduate from basic military training. In the civilian life I still live by the Air Force Core Values Integrity, service before self, and excellence in all we do.

Issue 4: In closing I feel I am a changed man than the young, immature boy when I got discharged. I also delt (sic) with my loss of my child and love of my life. I pray that I can serve my country again as a Marine.

ATCH

1. DD Form 214.

1 May 03/cr



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

4 JUN 2002

MEMORANDUM FOR AB [REDACTED]

FROM: 4 SOPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct (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 will be characterized as general.

2. My reasons for this action are:

a. On or about 13 Oct 01 you were in possession of an open container of alcohol and were cited by the Santa Barbara County Sheriffs Department for underage drinking. For this misconduct you received a Letter of Reprimand (LOR) dated 22 Oct 01 and an Unfavorable Information File (UIF) was established. (atch 1a)

b. On or about 4 Jan 02 you were derelict in the performance of your duties in that you willfully failed to refrain from consuming alcohol as a minor. For this misconduct you received an Article 15 dated 15 Jan 02 with forfeiture of \$552.00 pay per month for 2 months, with that amount exceeding \$250.00 pay per month for 2 months, suspended until 21 Jul 02. The Article 15 was placed in your UIF. (atch 1b)

c. On or about 19 Mar 02 you were derelict in your duty, to wit: you willfully failed to refrain from consuming alcohol while under the age of 21 years, as it was your duty to do. For this misconduct you received a Letter of Reprimand (LOR) dated 5 Apr 02. (atch 1c)

d. An investigation has disclosed that on or about 20 Apr 02 you were derelict in your duty, to wit: you willfully failed to refrain from consuming alcohol while under the age of 21 years and you were cited by the Colorado Springs Police Department for driving under the influence of alcohol, carrying an unauthorized concealed weapon and for failing to have compulsory auto insurance. For this misconduct you received an LOR dated 15 May 02. (atch 1d)

e. An investigation has disclosed that on or about 20 Jun 02 at or near Peterson AFB you were derelict in your duty, to wit: you willfully failed to refrain from consuming alcohol while under the age of 21 years. This is your fifth alcohol incident since entering the service in Jul 01. For this misconduct you received an LOR dated 20 Jun 02. (atch 1e)

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if 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 the Area Defense Counsel at the USAF Academy on **27 Jun 02 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 3 workdays from the date you receive this memorandum of notification 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. Your medical examination was completed on 15 Apr 02 at the Peterson AFB Flight Medicine Clinic.

8. Your MPF Separations brief was completed on 15 Apr 02 at Schriever AFB. If you have any further questions you can contact the Separations Office at 567-5335.

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 in your unit orderly room.


Commander Col, USAF

Attachments:

1. Derogatory Data:
 - a. LOR, 22 Oct 01, UIF, 29 Oct 01
 - b. Art 15, 15 Jan 02
 - c. LOR, 5 Apr 02
 - d. LOR, 15 May 02
 - e. LOR, 20 Jun 02
2. Airmen's Receipt of Notification
3. Airmen's Statement
4. Recoupment Statement