

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						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="padding: 2px;">COUNSEL</th> </tr> <tr> <td style="width: 50%; padding: 2px;">YES</td> <td style="width: 50%; padding: 2px;">NO</td> </tr> <tr> <td style="text-align: center; padding: 2px;"></td> <td style="text-align: center; padding: 2px;">X</td> </tr> </table>	COUNSEL		YES	NO		X	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
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 A95.00	INDEX NUMBER A67.90	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="padding: 2px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; padding: 2px; text-align: center;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 2px; text-align: center;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 2px; text-align: center;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px; text-align: center;">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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HEARING DATE 8 AUG 03	CASE NUMBER FD2003-0136																	

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: 8 AUG 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

FD03-0136

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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was able to identify none that would justify a change of discharge.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received two Article 15s for failure to go and being disrespectful in deportment and using profanity. He also received a Vacation action under the UCMJ for wrongfully using provoking words and being disorderly. Additionally, he received three Letters of Reprimand for being disrespectful, using extreme profanity, and for failure to go. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of 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 A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 12 Apr 02 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 6 Mar 80. Enlmt Age: 20 5/12. Disch Age: 22 1/12. Educ: HS DIPL. AFQT: N/A. A-65, E-66, G-76, M-65. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 25 Feb 01.

b. Prior Sv: (1) AFRes 7 Aug 00 - 18 Sep 00 (1 Month 12 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 19 Sep 00 for 6 yrs. Svd: 1 Yr 6 Mos 25 Das, all AMS.

b. Grade Status: AB - 9 Apr 02 (Article 15, 9 Apr 02)
 AMN - 2 May 01 (Vacation of Article 15, 25 Jun 01)
 A1C - 3 Nov 00

c. Time Lost: None.

d. Art 15's: (1) 9 Apr 02, Luke AFB, AZ - Article 86. You, did, on or about 2 Apr 02, without authority, fail to go at the time prescribed to your appointed place of duty. You, did, on or about 2 Apr 02, without authority, fail to go at the time prescribed to your appointed place of duty. Article 91. You, on or about 5 Apr 02, were disrespectful in deportment toward SMSgt [REDACTED], a NCO, then known by you to be a superior NCO, who was then in the execution of his office, by walking away when he was addressing you. Reduction to AB, and forfeiture of \$275.00 pay. (No appeal) (No mitigation)

(2) 25 Jun 01, Vacation, Luke AFB, AZ - Article 117. You, did, on or about 28 May 01, wrongfully use provoking words, to wit: "his friends had guns and could kill [REDACTED]," and "I have no problem hitting a bitch," or words to that effect towards AMN [REDACTED], USAF. Article 134. You, were, on or about 28 May 01, disorderly which conduct was of a nature to being discredit upon the armed forces. Reduction to AMN, (Punishment which calls for reduction below the grade of AMN suspended). (No appeal) (No mitigation)

(3) 2 May 01, Luke AFB, AZ - Article 91. You, on or about 14 Apr 01, were disrespectful toward SSgt [REDACTED], a NCO, then known by you to be a NCO, who was then in the execution of his office, by saying to him "I didn't do shit and you don't have shit on me," or words to that effect. Article 92. You, having knowledge of a lawful order issued by SSgt [REDACTED] to remain calm and refrain from using profanity, an order which it was your duty to obey, did, on or about 14 Apr 01, fail to obey the same by wrongfully failing to remain calm and to refrain from using profanity. Suspended reduction to AB, and 30 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 29 MAR 02 - Failure to go.
LOR, 08 FEB 02 - Disrespectful, using extreme profanity, refusing to perform duties, and leaving place of duty without proper authority.
LOR, 25 JAN 02 - Disrespectful, using profanity and refusing to perform duties.

f. CM: None.

g. Record of SV: None.

(Discharged from Luke AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (8) Mos (6) Das
TAMS: (1) Yrs (6) Mos (25) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 1 Apr 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED

ATCH

1. Applicant's Letter
2. Letter of Recommendation.

16 Jun 03/cr



DEPARTMENT OF THE AIR FORCE
56th Equipment Maintenance Squadron (AETC)
Luke Air Force Base, Arizona

APR 11 2002

MEMORANDUM FOR AB [REDACTED] 56 EMS

FROM: 56 EMS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Pattern of Misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50. This type of discharge can result in either an honorable or general discharge. I am recommending your discharge be characterized as general.
2. My primary reasons for this action are:
 - a. On 14 Apr 01, you were disrespectful in language toward a noncommissioned officer. For this infraction you received an Article 15 on 2 May 01. Your punishment included reduction to E-1, suspended until 1 Nov 01, and 30 days extra duty. An Unfavorable Information File (UIF) was established.
 - b. On 28 May 01, you wrongfully used provoking words towards another airman. Also, on 28 May 01 you were found disorderly which conduct was of a nature to bring discredit upon the armed forces. On 25 Jun 01, your previously suspended nonjudicial punishment was vacated and you were reduced to E-2. This action was filed in your existing UIF.
 - c. On 24 Jan 02, you were disrespectful in language toward a noncommissioned officer. For this infraction you received a Letter of Counseling on 25 Jan 02.
 - d. On 24 Jan 02, you were derelict in your duty, by refusing to perform lock-maintenance on the igloo's. Also, you were disrespectful in language toward a noncommissioned officer. For these infractions you received a Letter of Reprimand on 8 Feb 02. This action was filed in your existing UIF.
 - e. On 27 Mar 02, you failed to go to your appointed place of duty at the prescribed time. For this infraction you received a Letter of Reprimand on 29 Mar 02. This action was filed in your existing UIF.
 - f. On 2 Apr 02, you failed to go to your appointed place of duty at the prescribed time on two separate occasions and was disrespectful toward a senior noncommissioned officer. For these infractions you received an Article 15 on 9 Apr 02. Your punishment included reduction to the grade of E-1 and forfeiture of \$309 pay.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation will be provided to you. The commander exercising special court-martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. 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, Building 1150, Suite 3015, Luke AFB, AZ, on _____ at _____ 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 by _____, unless you request and receive an extension for good cause. I will send any statements you submit 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 retrieve your medical records from 56th Medical Group Hospital Outpatient Records and immediately report to Physical Exams, Building 810, with your medical records and your copy of this discharge package for the medical 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 in your unit orderly room.
9. Sign the attached acknowledgment and return it to me immediately.


Lt Col, USAF
Commander