

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE		AFSN/SSAN				
[REDACTED]		A1C		[REDACTED]				
TYPE	X	PERSONAL APPEARANCE		RECORD REVIEW				
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No	[REDACTED] Texas Veterans Commission			Texas Veterans Commission			
X								
MEMBER SITTING				VOTE OF THE BOARD				
				HON	GEN	UOTHC	OTHER	DENY
[REDACTED]				X+				
[REDACTED]				X+				
[REDACTED]				X+				
[REDACTED]				X+				
[REDACTED]				X+				
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD				
A94.06		A67.10		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		CASE NUMBER						
05 Dec 2003		FD-2003-00293						
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								
Advise applicant of the decision of the Board.								
+ CHANGE REASON AND AUTHORITY TO SECRETARIAL AUTHORITY								
SIGNATURE OF RECORDER			SIGNATURE OF BOARD PRESIDENT					
[REDACTED]			[REDACTED]					
INDORSEMENT				DATE: 12/5/2003				
TO:			FROM:					
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			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-2003-00293

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge.

The applicant appeared before the Discharge Review Board (DRB) at Randolph AFB, Texas, on 5 December 2003 and was represented by counsel, [REDACTED] of the Texas Veterans Commission.

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

The applicant submitted the following Exhibits:

Exhibit #6, Character Letter, Dr. [REDACTED] St. Philips College, 4 December 2003;

Exhibit #7, Character Letter, [REDACTED] Sr., Methodist Hospital, 4 December 2003;

Exhibit #8, Character Letter, Dr. [REDACTED] St. Philips College, 4 December 2003.

FINDINGS: The Board grants the requested relief.

The Board finds that the evidence of record and that provided by applicant substantiates an impropriety that justifies a change of discharge, and based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE:

Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and one Letter of Reprimand. The DRB concluded by its review of the applicant's records that his separation should have been characterized as an entry level separation. It is apparent from the applicant's records that the commander intended to initiate discharge before the applicant reached 180 days of active military service and even sent the applicant for his separation physical before the 180-day point. However, the applicant's commander did not formally notify the applicant of the commander's intent to discharge the applicant until 8 days after the applicant's 180-day point of service. In fact, the notification letter, dated 9 March 1995, states that the applicant was scheduled for a separation physical on 27 February 1995, the day he had his separation physical. Clearly, the commander's intent was to initiate separation before the member reached 180 days of service.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was improper and inequitable. The Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge and the reason for the discharge is more accurately described as Secretarial Authority. The applicant's characterization and reason for discharge should be changed to Honorable pursuant 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

[REDACTED]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 24 Mar 95 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge and to Change the Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 30 Apr 68. Enlmt Age: 26 4/12. Disch Age: 26 10/12. Educ: BA. AFQT: N/A. A-40, E-60, G-52, M-41. PAFSC: 4N011 - Medical Service Helper. DAS: 17 Oct 94.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 1 Sep 94 for 4 yrs. Svd: 0 Yrs 6 Mo 24 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: (1) 7 Feb 95, Sheppard AFB, TX - Article 92. You, did, at Sheppard AFB, TX, on or about 15 Jan 1995, fail to obey a lawful regulation, to wit: paragraph 4.3.1, Sheppard Training Wing Regulation 52-1, dated 1 Oct 93, by wrongfully departing Sheppard AFB, TX. You, did, at Sheppard AFB, TX, on or about 15 Jan 95, fail to obey a lawful regulation, to wit: paragraph 4.3.4, Sheppard Training Wing Regulation 52-1, dated 1 Oct 93, by wrongfully consuming alcohol. You, did, at Sheppard AFB, TX, on or about 15 Jan 95, fail to obey a lawful regulation, to wit: paragraph 4.3.2, Sheppard Training Wing Regulation 52-1, dated 1 Oct 93, by wrongfully wearing your civilian clothes. Suspended reduction to Airman, and 30 days correctional custody. (No appeal) (No mitigation)

e. Additional: LOR, 2 NOV 94 - Disobeying a lawful general regulation, by not being in his room with the lights out after 2300 hours and playing cards in the day room creating excessive noise.

f. CM: None.

g. Record of SV: None.

(Discharged from Sheppard AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (0) Yrs (6) Mos (24) Das

TAMS: (0) Yrs (6) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 11 Jul 03.

(Change Discharge to Honorable and Change the Reason and Authority for Discharge)

Issue 1: Training commanders verbally told me my discharge was going to be at least entry level if not medical.

Issue 2: Entry level because I had not yet exceeded 180 days of active duty service, and medical because of marching waivers that had to be constantly renewed/upgraded. Due to physical cond (sic) physical pain in both feet and lower back for duration of training. Currently rated 701 service connection disabled. Commanders ignored AFR Regulation and rendered non-judicial punishment for something I maintain my innocense (sic) to this very day. AFR Regulation supported my present physical condition and the program I was sent to only exacerbated my condition.

ATCH

1. Training Certificate.
2. DD Form 214.
3. Appeal of Punishment under Article 15.
4. AFLSA/JAJD Memorandum to 383 TRS/CC.
5. Response to Discharge Action.
6. Memorandum for 82 SPS/CC, 6 Mar 95.
7. Medical Support Documents.
8. Rating Decision.
9. DD Form 149.

22JUL03/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

9 MAR 1995

MEMORANDUM FOR A1C [REDACTED], 383 TRS

FROM: 383 TRS/CC
939 Missile Rd Ste 3
Sheppard AFB TX 76311-2262

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are

a. On or about 15 Jan 95, at Sheppard Air Force Base, Texas, you failed to obey a lawful regulation, to wit: para 4.3.1, Sheppard Training Wing Regulation (STWR) 52-1, dated 1 Oct 93, by wrongfully departing Sheppard Air Force Base, Texas. For this infraction and subparagraphs "b" and "c" below, you received Article 15 punishment on 21 Feb 95.

b. On or about 15 Jan 95, at Sheppard Air Force Base, Texas, you failed to obey a lawful regulation, to wit: para 4.3.4, STWR 52-1, dated 1 Oct 93, by wrongfully consuming alcohol.

c. On or about 15 Jan 95, at Sheppard Air Force Base, Texas, you failed to obey a lawful regulation, to wit: para 4.3.2, STWR 52-1, dated 1 Oct 93, by wrongfully wearing your civilian clothes.

d. On or about 31 Oct 94, at Sheppard Air Force Base, Texas, you failed to obey a lawful regulation, to wit: para 2.8 and 2.9, dated 1 Oct 93, by not being in your room with the lights out after 2300, and playing cards in the day room creating excessive noise. For this infraction, you received a Letter of Reprimand (LOR) on 2 Nov 94. 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 retrained 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.

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] at Building 1638, Rm 110, on 13 MAR, at 0930 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 14 MAR 95, 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 were scheduled for a medical examination. You were to report to Bldg 1200/Physical Exams at 1000 on 27 FEB for the examination.
7. 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 personnel office.
8. Execute the attached acknowledgment and return it to me immediately.

S/V.S.G.
 [REDACTED] Colonel, USAF, NC
 Commander

Attachments:

1. AF Form 3070, 21 Feb 95
2. Statement, AB [REDACTED] 24 Jan 95
3. Phase Card, A1C Lyles
4. Memo, 82 SPS/CC, 15 Feb 95
5. Letter of Reprimand, 2 Nov 94
6. Response to LOR, 4 Nov 94
7. Airman's Receipt of Notification Memorandum [REDACTED]