

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████		GRADE AB	AFSN/SSAN ██████████			
TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW			
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL				
YES	No					
	X					
MEMBERS SITTING		VOLE OF THE BOARD				
		HON	GEN	UOTHC	OTHER	DENY
						X
						X
						X
						X
ISSUES A92.21 A93.01		INDEX NUMBER A67.90		ISSUES 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 23 Jan 2004		CASE NUMBER FD-2003-00335				
APPLICANT'S ISSUE AND THE BOARD'S DECISION/RECOMMENDATION AND THE BOARD'S REASONING						
<p>Case heard at Washington, D.C.</p> <p>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.</p>						
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

FD2003-00335

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change his reenlistment code.

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

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

FINDINGS: Upgrade of discharge and change of reenlistment code are denied.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any.

Issues. Applicant was discharged for conduct prejudicial to good order and discipline. He had an Article 15, subsequent vacation of suspended punishment, and an Unfavorable Information File as a result of two underage drinking incidents. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf requesting retention, or in the alternative, that he be offered probation and rehabilitation (P & R), with the opportunity to participate in an in-patient alcohol rehabilitation program. These requests were denied. The record reflected that at the time of his first underage drinking incident, applicant lied in a sworn statement to Security Police investigators about the circumstances of his offense, and later recanted. At that time he was sent for an alcohol abuse evaluation and based on his own replies to the extensive in-take questionnaire, in which he denied a serious alcohol problem, he was entered into a Track 2 Substance Abuse Awareness Seminar of the Substance Abuse and Rehabilitation Treatment (SART) program, after which he was determined to have successfully completed the program. Less than 2 months later, his second offense occurred. Applicant was again referred to the SART program, and his new in-take questionnaire was markedly different from the previous one, and at this time he was diagnosed alcohol dependent. His commander specifically stated that had applicant been honest with the Security Police and shown integrity during the SART in-take after his first incident, he could have been considered for P & R. However, given his dishonesty, the commander did not think that appropriate after the second offense, particularly in view of the negative impact it could have had on unit morale and discipline. The records also reflected applicant entered the military service on a moral waiver due to a pre-service arrest for driving under the influence of alcohol that occurred at age 17. The Board noted member was given the opportunity to correct his behavior but was initially either unwilling or unable to do so. Because member was responsible for his actions, he was held accountable for them. The Board found nothing during the course of the record review to warrant an upgrade. There was no inequity or impropriety, thus the characterization of service was deemed appropriate in view of the repeated misconduct.

If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise this right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

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 31 May 97 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge and Change to Reentry Code.

2. **BACKGROUND:**

a. DOB: 15 Apr 77. Enlmt Age: 17 10/12. Disch Age: 20 1/12. Educ: HS DIPL. AFQT: N/A. A-86, E-50, G-62, M-30. PAFSC: 4J032 - Physical Therapy Apprentice. DAS: 13 May 96.

b. Prior Sv: (1) AFRes 22 Feb 95 - 29 Nov 95 (9 Months 8 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 30 Nov 95 for 4 yrs. Svd: 1 Yr 6 Mos 2 Das, all AMS.

b. Grade Status: AB - 25 Feb 97 (Vacation of Article 15, 5 May 97)
AMN - 30 May 96

c. Time Lost: None.

d. Art 15's: (1) 5 May 97, Vacation, Little Rock AFB, AR - Article 92. You, who knew of your duties, between on or about 23 Apr 97 and on or about 24 Apr 97, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of twenty-one (21), as it was your duty to do. Reduction to AB. (No appeal) (No mitigation)

(2) 25 Feb 97, Little Rock AFB, AR - Article 92. You, who knew of your duties, on or about 1 Feb 97, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcoholic beverages while under the age of twenty-one (21), as it was your duty to do. Suspended reduction to AB, forfeiture of \$100 pay per month for 2 months, 21 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: None.

(Discharged from Little Rock AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (2) Yrs (3) Mos (10) Das
TAMS: (1) Yrs (6) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 Oct 03.
(Upgrade Discharge to Honorable and Change to Reentry Code)

NO ISSUES SUBMITTED

ATCH

1. Applicant's Statement.
2. Congressional Inquiry.

15 Oct 03/cr



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND



22 May 97

MEMORANDUM FOR AB [REDACTED]
314TH MEDICAL OPERATIONS SQUADRON

FROM: 314 MDOS/CC

SUBJECT: Notification Memorandum

1. I am considering the following additional documentary evidence in determining whether you should be discharged from the United States Air Force for A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline.

a. Records of your treatment in Track 2 of the Substance Abuse Reorientation and Treatment Program. (Atch 1-4)

b. Evidence from your Article 15 case file that shows the circumstances surrounding your arrest. This includes evidence of a false statement you made to a Security Policeman, SSgt [REDACTED] on or about 1 February 1997. (Atch 1-5).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached to this and the prior notification memorandum. The commander exercising SPCM jurisdiction or 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.

4. You have consulted counsel already, but you have the right to consult counsel again to discuss this additional evidence. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult Captain [REDACTED] Area Defense Counsel, Bldg 1255, Rm 201, Telephone [REDACTED] on 23 May 1997 at 0930 hours. You may consult civilian counsel at your own expense.

5. You have already submitted statements, but you have the right to submit additional statements in your own behalf based on the additional I am considering. Any statements you want the separation authority to consider must reach me by 3 workdays 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. 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 the Orderly Room.

8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]
[REDACTED] Lt Col, USAF
Commander

Attachments:

1-4 Mental Health records

1-5 AF Form 3545, 1 Feb 97

AF Form 1168, AB [REDACTED] 1 Feb 97, 0420

AF Form 1168, AB [REDACTED] 1 Feb 97, 0222

DD Form 1920, 1 Feb 97

BAC Datamaster Evidence Ticket

AF Form 1364, 1 Feb 97

Written presentation



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD2003-00335



MEMORANDUM FOR AB [REDACTED]
314TH MEDICAL OPERATIONS SQUADRON

9 May 97

FROM: 314 MDOS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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. Between on or about 23 April 1997 and on or about 24 April 1997, you violated a lawful general regulation by wrongfully consuming alcohol while under the age of twenty one. For this action you received a vacation to your suspended Article 15 punishment. (Atch 1-1)
 - b. On or about 1 February 1997, you violated a lawful general regulation by wrongfully consuming alcohol while under the age of twenty one. For this action you received an Article 15. (Atch 1-2)
3. Other Information: On or about 25 February 1997, you completed Track 2 of the SART program. (Atch 1-3)
4. 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 discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force.
5. 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] Area Defense Counsel, Bldg 1255, Rm 201, Telephone [REDACTED] on 9 May 1997 at 0930 hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 3 workdays unless you request and receive an extension for good cause shown. I will send them to the separation authority.
7. 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.
8. You have been scheduled for a medical examination. You must report to Little Rock AFB Hospital at 0730 hours on 12 May 1997 for the examination.
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 the Orderly Room.
10. Execute the attached acknowledgment and return it to me immediately.

 Lt Col, USAF
Commander

Attachments:

- 1-1 AF 366, 25 Apr 97
supporting documentation
- 1-2 Art 15, 27 Feb 97
supporting documentation
- 1-3 AF Form 2731, 25 Feb 97