

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED] GRADE AMN [REDACTED] AFSN/SSAN [REDACTED]

TYPE GEN X PERSONAL APPEARANCE RECORD REVIEW COUNSEL NAME OF COUNSEL AND OR ORGANIZATION ADDRESS AND OR ORGANIZATION OF COUNSEL YES No X

MEMBER SITTING VOTE OF THE BOARD Table with columns: HON, GEN, UOHC, OTHER, DENY. Rows: 1 (HON: X), 2 (HON: X), 3 (DENY: X), 4 (HON: X, DENY: X)

ISSUES A93.23 A93.11 A93.07 A93.09

INDEX NUMBER A67.09

- 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 DATE 04 Mar 2004 CASE NUMBER FD-2003-00517

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C.

INDORSEMENT DATE: 4/5/2004 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

CASE NUMBER

FD-2003-00517

GENERAL: The applicant appeals for an upgrade of the discharge characterization to Honorable and for a change in the reason and authority for the discharge and in the reenlistment code.

The applicant personally appeared before the Discharge Review Board (DRB) at Andrews AFB MD, on 30 March 2004. He was not represented and or accompanied. He submitted one additional exhibit - Exhibit #5: Character Letter, undated.

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

FINDINGS: The Board grants in part and denies in part the requested relief. The discharge is upgraded to Honorable, but the change in the reason and authority for discharge and the change of reenlistment code are denied.

ISSUE:

The applicant was discharged with a general service characterization for a pattern of misconduct or, more specifically, minor disciplinary infractions. He twice received nonjudicial punishment under Article 15, UCMJ, as well as a vacation action, three letters of reprimand, a letter of admonition, and a record of individual counseling. He was also verbally counseled on a number of occasions. His misconduct included several instances of failure to go and dereliction of duty for failing to properly perform his duties according to established procedure and the technical orders.

The applicant was married in April 2002; he had been married previously (it ended in divorce). From the beginning, the applicant experienced significant difficulties with his marriage. He and his wife argued constantly (there were apparently no physical altercations, but the verbal confrontations were so significant that at one point, the command removed the applicant from his home and had him spend a couple nights in the dorms), they experienced significant financial problems, there were child care issues, and there were other problems that affected the marriage. The applicant's wife was under psychiatric care and on medication. The applicant was never referred to Life Skills by his command and never sought care himself. The applicant and his wife did undergo marital counseling, but the problems did not abate. In order to conquer the financial issues, the applicant got a second job because his wife was unwilling to work. Between the second job and his Air Force duties, the applicant was unable to get sufficient sleep. His timeliness and duties suffered as a result. The applicant and his wife divorced within a couple months after the applicant left active duty.

Issue 1. The applicant challenged the equity of his discharge action citing his personal, financial, and marital problems. The DRB found that there did exist significant problems in this regard. Indeed, it appeared that his troubled marriage was the genesis for all his difficulties. The DRB determined that while the applicant was only a marginal performer, his performance problems and his misconduct all related to his inability to cope with the problems caused by his marriage. While the command acted appropriately in handling the disciplinary action against the applicant (to include the discharge action itself), a majority of the board felt that the command could have and should have done more to address the real problem - the applicant's turbulent marriage and wretched personal problems. For example, the command should not have permitted the applicant to take a second job given the virtual certainty of an adverse impact on his duty performance. The majority of the DRB felt that had the command become more involved with the applicant and taken a more active concern (rather than simply "checking the regulatory boxes") the applicant could have avoided the discharge characterization and its adverse consequences. Given the nature and degree of the applicant's

marital, financial, and personal problems, the command's failure in this regard amounted to an inequity.

Issue 2: The applicant impliedly raised, through his testimony, the possibility of psychological difficulties. It was most apparent in the applicant's inability to cope with the fairly ordinary stress of a marriage. His inability to effectively resolve his unexceptional marital and personal problems and his inability to prevent the resulting impact on his duty performance, also suggested to the DRB a pathological basis for the applicant's difficulties. In the majority's view, these issues were not appropriately addressed by the command. A referral to Life Skills would almost certainly have benefited the applicant and may well have helped him avoid the pitfalls that eventually led to his discharge. The DRB concluded that the command's failure in this regard amounted to an inequity.

The DRB did conclude, however, that applicant's personal problems, apparent difficulty adjusting to and coping with the ordinary demands of marital life, and the resulting misconduct clearly demonstrate that the applicant is unsuited for the rigors of military service.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was not wholly consistent with the substantive requirements of the discharge regulation. In view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge but that the reason and authority for the discharge and the reenlistment code should not be changed. The applicant's characterization should be changed to Honorable 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

(Former AMN) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 28 Aug 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 18 Aug 78. Enlmt Age: 21 1/12. Disch Age: 24 0/12. Educ: HS DIPL. AFQT: N/A. A-36, E-63, G-53, M-79. PAFSC: 2F051 - Fuels Journeyman. DAS: 4 Dec 01.

b. Prior Sv: (1) AFRes 23 Sep 99 - 12 Oct 99 (20 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 13 Oct 99 for 6 yrs. Extended 10 Aug 01 for 2 months. Svd: 2 Yrs 10 Mo 16 Das, all AMS.

b. Grade Status: AMN - 17 Jul 02 (Vacation of Article 15, 17 Jul 02)
A1C - 09 Aug 01
AMN - 13 Apr 01 (Article 15, 13 Apr 01)
A1C - Unknown

c. Time Lost: None.

- d. Art 15's: (1) 30 Jul 02, Eielson AFB, AK - Article 86. You did, on or about 20 Jul 02, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman. (No appeal) (No mitigation)
- (2) 17 Jul 02, Eielson AFB, AK - Article 86. You did, on or about 30 Jun 02, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Airman, suspended forfeiture of \$250.00 pay per month for 2 months, five days extra duty, and a reprimand. (No appeal) (No mitigation)
- (3) 13 Apr 01, Nellis AFB, NV - Article 92. You, who knew or should have known of your duties, on or about 9 Mar 01, were derelict in the performance of those duties in that after being informed of a weather warning of lightning, you willfully failed to stop refueling operations, as it was your duty to do. Reduction to Airman, and 21 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 30 JUL 02 - Dereliction of duty.
 LOA, 06 JUN 02 - Dereliction of duty.
 LOR, 05 JUN 02 - Late for work.
 RIC, 04 JUN 02 - Late for work.
 LOR, 22 MAY 02 - Dereliction of duty.

f. CM: None.

- g. Record of SV: 13 Oct 99 - 15 Apr 01 Nellis AFB 2 (HAF Dir) REF
 16 Apr 01 - 13 Oct 01 Nellis AFB 3 (CRO)

(Discharged from Eielson AFB)

h. Awards & Decs: AFTR, NDSM, AFOUA W/1 DEV.

- i. Stmt of Sv: TMS: (2) Yrs (11) Mos (6) Das
 TAMS: (2) Yrs (10) Mos (16) Das

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

Issue 1: I feel my discharge was ineguitable (sic) because it was based on minor disciplinary infractions. Although I except (sic) responcablies (sic) for my actions I am only human and make mistakes. I did not think that something so small would result in something like this. Thank you looking (sic) into my discharge.

ATCH
 None.

25NOV03/ia

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

AUG 8 2002

MEMORANDUM FOR Amn [REDACTED] 354 SUPS, PACAF

FROM: 354 SUPS/CC

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 AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable, general or under other than honorable. I am recommending that your service be characterized as general.
2. My reasons for this action are as follows:
 - a. On or about 9 Mar 01, you were derelict in the performance of your duties by failing to stop refueling operations after receiving a weather warning. For this infraction, you received nonjudicial punishment, dated 13 Apr 01 (Atch 1).
 - b. On or about 22 Apr 02, you were derelict in the performance of your duties by not reporting a vehicle accident. For this infraction, you received a Letter of Reprimand, dated 22 May 02 (Atch 2).
 - c. On or about 1 Jun 02, you failed to go to your assigned duty location at the prescribed time. For this infraction, you received a Record of Individual Counseling, dated 4 Jun 02 (Atch 3).
 - d. On or about 3 Jun 02, you failed to go to your assigned duty location at the prescribed time. For this infraction, you received a Letter of Reprimand, dated 5 Jun 02 (Atch 4).
 - e. On or about 4 Jun 02, you were derelict in the performance of your pumphouse operator duties by sleeping while an aircraft was being refueled. For this infraction, you received a Letter of Reprimand, dated 6 Jun 02 (Atch 5).
 - f. On or about 30 Jun 02, you failed to go to your assigned duty location at the prescribed time. For this infraction, you received nonjudicial punishment, dated 17 Jul 02 (Atch 6).
 - g. On or about 20 Jul 02, you failed to go to your assigned duty location at the prescribed time. For this infraction, the suspended reduction in grade to airman from your nonjudicial punishment, dated 17 Jul 02, was vacated, dated 30 Jul 02 (Atch 7).

h. On or about 29 Jul 02, you were derelict in the performance of your duties by not using the mandatory checklist while operating the R12. For this infraction, you received a Letter of Reprimand, dated 30 Jul 02, and this discharge action was initiated (Atch 8).

3. 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. 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 Capt [REDACTED] Area Defense Counsel, Building 3112, Room 155, Eielson AFB, Alaska, on _____ at _____. 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 (3 duty days) 13 AUG 02 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. You have been scheduled for a medical examination. You must report to the Physical Examination Section, 354th Medical Group, Building 3349, at 1500 on 13 Aug 02 for the 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 orderly room.

[REDACTED]

[REDACTED] Maj, USAF
Commander, 354 SUPS

Attachments:

1. AF Form 3070, dtd 13 Apr 01
2. Ltr of Reprimand, dtd 22 May 02
3. AF Form 174, dtd 4 Jun 02
4. Ltr of Reprimand, dtd 5 Jun 02
5. Ltr of Admonition, dtd 6 Jun 02
6. AF form 3070, dtd 17 Jul 02
7. AF form 366, dtd 30 Jul 02
8. Ltr of Reprimand, dtd 30 Jul 02