

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE AB	AFSN/SSAN ██████████
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		ADDRESS AND OR ORGANIZATION OF COUNSEL	
NAME OF COUNSEL AND OR ORGANIZATION			
YES	No		
	X		

MEMBER SITTING	NOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A01.13 A93.19 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 DATE 17 Mar 2004	CASE NUMBER FD-2003-00564	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE COVERED BY THE ACTING AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

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.

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00564

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) 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, change of reason and authority for discharge, and change of reenlistment code are denied.

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

Issues 1 through 4. Applicant infers discharge was inequitable because it was too harsh. The records indicated the applicant received two Articles 15 and a Record of Individual Counseling for misconduct including providing alcohol to underage minors, underage drinking, storing unauthorized weapons in his dormitory room, leaving the duty section without informing a noncommissioned officer, and losing a tool. At the time of the discharge, member waived his right to consult counsel and to submit statements in his own behalf. Additionally, the records disclosed member entered the military on a moral waiver due to pre-service marijuana use on three occasions, arrest and conviction for petty larceny, and that he had been fired from a civilian job due to poor attendance. The DRB opined that while in service, the unit's administrative actions had given the applicant ample opportunity to change his negative behavior, without positive result. The Board concluded his misconduct was a significant departure from conduct expected of all military members. 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 characterization of the discharge received by the applicant was found to be appropriate.

Applicant cites his desire for post-service employment in law enforcement, or to reenter military service. While the DRB commends applicant on these aspirations, they don't comprise an inequity or impropriety or provide a basis for upgrade. The Board concluded applicant's misconduct appropriately characterized his term of service.

Applicant also cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on December 2, 1996) that he understood he must receive an honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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

(Former AB) (HGH AMN)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 24 Sep 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 1 Jan 77. Enlmt Age: 19 7/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-07, E-70, G-74, M-74. PAFSC: 2A631E - Aerospace Propulsion Apprentice. DAS: 19 May 97.

b. Prior Sv: (1) AFRes 9 Aug 96 - 19 Nov 96 (3 months 11 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Nov 96 for 4 yrs. Svd: 1 Yrs 10 Mo 5 Das, all AMS.

b. Grade Status: AB - 13 Aug 98 (Article 15, 13 Aug 98)
Amn - Unknown.
AB - 21 Nov 97 (Article 15, 21 Nov 97)
Amn - Unknown.

c. Time Lost: None.

d. Art 15's: (1) 13 Aug 98, Ellsworth AFB, SD - Article 92. You, who knew of your duties, on or about 2 Aug 98, were derelict in the performance of those duties in that you willfully provided alcohol to A1C [REDACTED] and Amn [REDACTED] individuals under the state legal drinking age of 21, as it was your duty to refrain from doing. Reduction to AB, forfeiture of \$200.00 pay, and 14 days extra duty. (Appeal/Denied) (No mitigation)

(2) 21 Nov 97, Ellsworth AFB, SD - Article 92. You, who knew of your duties, on or about 1 Nov 97, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol while under the state legal drinking age of 21, as it was your duty to do. You, who knew of your duties, on or about 1 Nov 97, were derelict in the performance of those duties in that you willfully failed to refrain from storing weapons and fireworks in an unauthorized location, to wit: your dormitory room, as it was your duty to do. Reduction to AB, forfeiture of \$100.00 pay per month for 2 months, and 15 days restriction. (No appeal) (No mitigation)

- e. Additional: RIC, 21 JAN 98 - Leaving duty section for appointment without notifying an NCO, and losing a tool.
- f. CM: None.
- g. Record of SV: 20 Nov 96 - 19 Jul 98 Ellsworth AFB 4 (Initial)
(Discharged from Ellsworth AFB)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (2) Yrs (1) Mos (16) Das
TAMS: (1) Yrs (10) Mos (5) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 8 Dec 03.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: Underage Drinking - Article 15 for infraction 11-1-97, two months before my 21st birthday. No withstanding the wrongful nature of my action underage drinking was common & often punished with less serious consequences than I received.

Issue 2: Purchasing Alcohol for Fellow (Minor) Service Woman - I was asked by a co-worker to purchase alcohol & was assured that the alcohol would be consumed at quarters and that there would be no drinking and driving involved. This was my first and last episode of providing alcohol to a minor. The servicewoman involved was a good friend of my wife & I felt pressured into doing it.

Issue 3: I was unaware that my BB-Gun and fireworks had to be stored in the Arms room vs my locker. I was new on base.

Issue 4: A wrench had fallen into a crevice at work. I was going to retrieve it but forgot, due to my being late for an appointment. I informed a co-worker I was leaving as was the custom, but was later criticized for not informing a supervisor. The wrench was in an engine stand, not near or in the Jet Engine being worked on.

ATCH

1. Letter to the Air Force Discharge Review Board, 15 Dec 03.
2. Awards & Recognitions 2003.
3. Copies of Discharge Correspondence.
4. DD Form 214.

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FD 7003-00564



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 28TH LOGISTICS GROUP (ACC)
ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

9 SEP 1998

MEMORANDUM FOR AB [REDACTED]

FROM: 28 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct involving 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 under honorable conditions (general). I recommend that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You, who knew of your duties at Ellsworth Air Force Base, South Dakota, on or about 1 Nov 97, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol while under the state legal drinking age of 21, as it was your duty to do. You, who knew of your duties at Ellsworth Air Force Base, South Dakota, on or about 1 Nov 97, were derelict in the performance of those duties in that you willfully failed to refrain from storing weapons and fireworks in an unauthorized location, to wit: your dormitory room, as it was your duty to do. For this you were punished under Article 15 of the Uniform Code of Military Justice (UCMJ) on 21 Nov 97. You were reduced to the grade of airman basic. You also forfeited \$100.00 pay per month for two months and you were restricted to Ellsworth Air Force Base for 15 days. This Article 15 established your Unfavorable Information File (UIF).

b. On or about 20 Jan 98 you left for an appointment without informing anyone in your chain of command. You also failed to inform anyone of a lost box end wrench, which caused five JEIM personnel to search for the lost tool. For this you received a Letter of Counseling (LOC) on 21 Jan 98.

c. You, who knew of your duties, at or near Ellsworth Air Force Base, South Dakota, on or about 2 Aug 98, were derelict in the performance of those duties in that you willfully provided alcohol to Airman First Class [REDACTED] and Airman [REDACTED] individuals under the state legal drinking age of 21, as it was your duty to refrain from doing. For this you were punished under Article 15 of the UCMJ on 13 Aug 98. You were reduced to the grade of airman basic. You also forfeited \$200.00 pay and you received 14 days extra duty. This Article 15 was placed in your UIF.

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 a 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.

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, 5-2158, 1000 Ellsworth St Ste 1700 on 9 Sep 98 at 1500 hrs. You may consult civilian counsel at your own expense.

Global Power for America

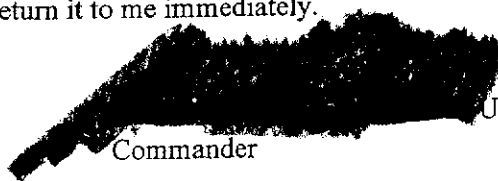
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 14 Sep 98, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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 Exams Section of the Base Hospital at 0730 hrs on **10 Sep 98** for the examination. This is a mandatory appointment, and you must be in uniform.

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.

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

 USAF
Commander

Attachments:

1. Supporting documents
 - Article 15/UIF - 21 Nov 97
 - LOC - 21 Jan 98
 - Article 15/UIF - 13 Aug 98
2. Airman's Acknowledgment