

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2003-00198

GENERAL: The applicant appeals for upgrade of discharge to honorable, 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: The discharge is upgraded to Honorable. However, change of reason and authority for the discharge and change of reenlistment code are denied.

The Board finds that the evidence of record does substantiate an impropriety that would justify a change of discharge. The Board finds the applicant's characterization of discharge improper.

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 evidence of an impropriety in this case on which to base an upgrade of discharge. The administrative discharge notification letter indicated that the member was being discharged for Unsatisfactory Performance due to Failure to Progress in On-The-Job Training. The letter made no mention of any misconduct on the part of the applicant which would be used in characterizing his service. Nonetheless, the separation authority was advised that he could use the minor misconduct in evaluating the member's service. The DRB concluded that the separation authority's consideration of the misconduct, in this case, was improper. Without misconduct or proof that the member deliberately failed in his OJT, he would have received an Honorable.

CONCLUSIONS:

The Board concluded that the applicant's discharge was not consistent with the procedural and substantive requirements of the discharge regulation and that the improprieties in this record require a change to his service characterization. The Board concluded that the applicant's service is more accurately reflected by an Honorable discharge, 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 A1C) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr USAF 17 May 02 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance). Appeals for an Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. BACKGROUND:

a. DOB: 29 Aug 79. Enlmt Age: 18 10/12. Disch Age: 22 8/12. Educ: HS DIPL. AFQT: N/A. A-68, E-40, G-42, M-38. PAFSC: 3P031 - Security Forces Apprentice. DAS: 15 Mar 99.

b. Prior Sv: (1) AFRes 8 Jul 98 - 6 Oct 98 (2 months 29 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 7 Oct 98 for 6 yrs. Svd: 3 Yrs 7 Mo 11 Das, of which AMS is 3 yrs 7 months 10 days (excludes 1 day lost day).

b. Grade Status: A1C - 22 Nov 98

c. Time Lost: 4 Apr 01 thru 5 Apr 01 (1 day).

d. Art 15's: None.

e. Additional: Student History Query, 2 May 02 - CDC Failures.
LOR, 04 FEB 01 - Speeding and wreckless driving.
LOR, 10 AUG 00 - Failure to go.
LOR, 27 JUL 00 - Failure to go.

f. CM: None.

g. Record of SV: 07 Oct 98 - 15 Apr 00 Tinker AFB 5 (HAF Dir)
16 Apr 00 - 15 Apr 01 Tinker AFB 1 (Annual) REF
16 Apr 01 - 15 Apr 02 Tinker AFB 2 (Annual)

(Discharged from Tinker AFB)

h. Awards & Decs: AFTR, HSM, NDSM, SAEMR W/1 DEV, AFEM, AFAM.

i. Stmt of Sv: TMS: (3) Yrs (10) Mos (9) Das
TAMS: (3) Yrs (7) Mos (10) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 14 Apr 03.

(Change Discharge to Honorable, Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Notification Memorandum.
2. Student History Query.
3. On-The-Job Training Record.
4. Statement of Suspect/Witness/Complainant.
5. List of USAF Achievements.
6. DANES Test Log.
7. Air Force Achievement Medal.
8. DD Form 214.

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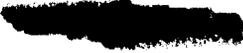
MEMORANDUM FOR WHOM IT MAY CONCERN**FROM:** [REDACTED]**SUBJECT:** Change of discharge

1. On May 17 of 2002 I was discharged Under Honorable Conditions (General) from the United States Air Force. I feel the type of discharge that I received was inappropriate and unjust. I am asking for your consideration to properly change the discharge to an Honorable enabling me to reenter the United States Air force and complete the goals I set for myself when I joined in October of 1998. Thank you for you time in reviewing my request.
2. I entered the United States Air Force on October 7 of 1998 with the intention of being one of the best troops to serve my country. I pursued the Security Police career field because I love to help people and to hopefully make a difference in other peoples lives. On March 15, 1999 I was stationed at Tinker A.F.B. in Oklahoma. I loved my job and was eager to start achieving my goals. I received a (5) on my first Enlisted Performance Report (EPR). I was then given my CDC's , which consisted of three training volumes: Law Enforcement, Security, and Ground Base Defense. I was eager and excited to successfully complete my CDC's. I started and completed my first volume. I passed with an 84% on my first set and an 83% on my second set. Due to the following circumstances I was not as successful with my third and final test. In October or 1999 I went on a short deployment to Las Vegas, when I returned my wife was packing to move out she told me she had been cheating on me and no longer wanted to be married. I tried to convince her we could make things work but she disagreed and we both went our separate ways. So after only being married a short five months my divorce was final in December of 1999 and it affected me greatly. I received no support or help from my supervisor during this time. I felt my divorce made me a failure and subsequently lost focus on my goals. I then volunteered to go on a three-month deployment to try and get away and move on. I believed this TDY would help my package for below the zone, which I was up for while deployed to the desert. Below the zone was a chance to be promoted in rank a little faster, which was one of my main goals when entering the military. I gave all my achievements to my Supervisor SSgt [REDACTED] and he insured me he would work on it and turn it in. While in the desert I got involved in the K-9 program where I became wrap certified. This certification enabled me to assist the dog handlers in the training of military

police dogs. Unfortunately I also gave my best friend since Tech school power of attorney and complete control of my finances. It was his job to make sure all my financial obligations were taken care of while I was TDY. However while I was TDY he was spending all of my money and paying none of my bills. I was not notified of the situation until a few short weeks before my return and at that point all of my bills were delinquent and we had been evicted from our apartment. Upon my return I told my chain of command and was informed there was nothing they could do but talk to him because I gave him full power of attorney. A couple of days later I approached my supervisor SSgt [REDACTED] to see if I received below the zone. He said he turned it in and unfortunately I didn't get it. Later, after doing research found that my package was never turned in. I was devastated I felt I had been let down by my ex-wife, my best friend, and my supervisor all within a six-month time. I asked to get a change in supervisors because I felt he was not fulfilling his duties as my supervisor. I had another supervisor talk with my supervisor and my first shirt. He volunteered to take me as one of his troops but the first shirt decided I needed to stay where I was.

3. On July 21 of 2000 I had a weapons firing appointment that I missed due staying up late studying for my final CDC test I was to take the following week. I received a letter of reprimand (LOR) which I thought was a bit harsh since I had never been late or missed any scheduled appointments before. I had also never received a verbal counseling or a letter of counseling for a missed appointment. I couldn't focus on my CDC test and scored a 63%, two points from passing. I asked my supervisor to temporarily remove me from the CDC program until I got things straightened out. He refused and said I had less than two-months to take it again. I was given no help or assistance studying from my supervisor or any of my peers while on duty. I was told it was my responsibility to do it on my own in my free time. At this point my hopes and goals for my military career seemed to be slipping away. I spoke with my supervisor and he scheduled an appointment to speak with first shirt to explore my options. When I showed up for the meeting I believed I was there to find a way past my current problems. However, instead of helping me I felt I was threatened, they both said I either suck it up or go to jail. I felt my supervisor should have helped and supported me with my problems not threaten me. I took my final CDC test on September 22 of 2000. I failed my test and was removed from the CDC program. After I failed my test the second time SSgt [REDACTED] approached one of the other men who took their test with me he signed a statement saying I was only in the testing room for approximately five minutes. I knew his statement was untrue and proved it by acquiring the test log for the day, which shows I was there for 52 minutes. Because of test failure I could not

be promoted. I went for counseling to try and resolve some of the problems I was facing. They decided it was best to put me on weapon restriction. A short time later my weapon restriction was removed and I was starting to get back on track.

4. In April of 2001 I was riding with a couple of guys and we stopped out in a field off an old dirt road someone notified the police we were there and we were arrested for trespassing. I was unaware it was private property. One of the men in the car had some illegal substances. Charges were dropped on me but the military took over and decided to do an investigation. The military immediately after being released from jail had me submit to a drug test, which I passed. They relieved me of duty and took months to do the investigation. OSBI was doing the investigation and they continually harassed my friends to try and get them to make statements against me by telling them I had made incriminating statements against them. During the time I was off duty everyone referred me as a "dirtbag" and other inappropriate names. Rumors about the incident started to circulate throughout the squadron, all of which had no truth to them. I was picking up cigarette butts and filling sand bags on a daily basis and being given other demeaning tasks that I felt were punishments even though I was not charged or guilty of any crime I was not allowed to return to normal duty posts. I requested that I wanted out of the military because even after the investigation was complete and I was cleared of all offenses people still looked down on me. I was up for another EPR and was given a (1). I felt the score was unjust and so did many other people. I was doing many good things as shown in my attachments but I felt the score given to me was because of my arrest. I wrote a rebuttal but it was denied. After the investigation they still kept me off duty, I couldn't plan my life or pursue any goals. I was repeatedly given dates as to when I would be discharged and time and time again those dates passed and I was told something new. I didn't realize that it would be May 12 of 2002 until I would be discharged.
 5. In closing I would like to ask you to let me have the opportunity to be able to return back to the military. Even though many things happened I realized that I really enjoyed the military life and I know I would be a great asset to the U.S.A.F. when given the chance. I want nothing more than to make the military my life career. I have a beautiful wife and child and want them to be proud of everything I do in life and I feel a career in the U.S.A.F. is something we can all be proud of. Again thank you for your time to review this matter.
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Attachments:

- (a) Notification Memorandum**
- (b) Achievement paper**
- (c) CDC Test Log**
- (d) Achievement medal certificate**
- (e) Certificate of Release or Discharge from Active Duty**



DEPARTMENT OF THE AIR FORCE
72d SECURITY FORCES SQUADRON (AFMC)
TINKER AIR FORCE BASE, OKLAHOMA

8 May 2002

MEMORANDUM FOR AIC [REDACTED] 72 SFS

FROM: 72 SFS/CC
Tinker AFB OK 73145

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Unsatisfactory Performance. My authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.26.3, Failure to Progress in On-The-Job Training. 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:

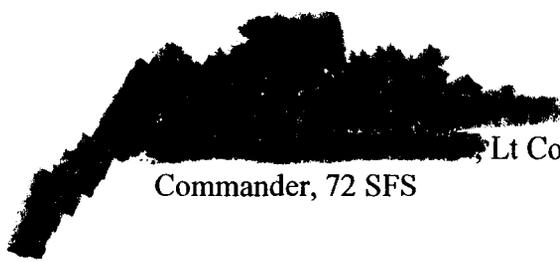
a. You were enrolled in CDC course # 3P051B. Over a period of time, you were trained over each volume of study. On 28 Jul 00 you took the first final testing over the CDC course and scored 63% on that test. After more studying, you then took the final test the second time, scoring only 47% on that test. You failed the CDC course.

b. You made statements to SSgt [REDACTED] and your first sergeant to the effect that you would do anything to be able to separate from the Air Force. You also stated to SSgt [REDACTED] that you would not be threatened, and that SSgt [REDACTED] needed to do what had to be done because you were finished. See Atch 1. Your attitude and performance do not make you a good candidate for retention and subsequent training. See Atch 2

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.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made arrangements for you to consult Capt [REDACTED] at Bldg 452, Tinker AFB OK on 9 May 2002, at 1030 hours. If it is necessary to change this appointment time, call Capt [REDACTED] office at 405/739-7713. 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 13 May 2002, 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 are scheduled for a medical examination on 9 May 02 at 0830 hours, and you should report, in uniform, to the Tinker AFB Hospital, Physical Exam Section, on that date for the examination. You should take your I.D. card, shot records, and dog tags to the appointment.
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.



Lt Col, USAF
Commander, 72 SFS

Attachments:

1. CDC Course Test Failures
2. Stmts of Thomas, Adkison & Ward
3. Acknowledgment Ltr