

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AIC	AFSN/SSAN ████████████████
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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	VOICE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES	A93.19 A92.22 A94.12 A92.36	INDEX NUMBER	A67.90 A60.00	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	CASE NUMBER
12 Feb 2004	FD-2003-00433

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED 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.

INDORSEMENT		DATE: 2/24/2004
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-2003-00433

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant personally appearance before the Discharge Review Board (DRB) at Andrews AFB MD, on 12 February 2004. The applicant had no witnesses and, other than his testimony, presented no additional evidence.

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

FINDINGS: Upgrade of Discharge is 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:

The applicant submitted four issues for review and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity upon which to base an upgrade of the discharge. The records indicated the applicant received one Article 15 action, one vacation action, four letters of reprimand, and sixteen records of individual counseling. Almost all the disciplinary actions taken concerned the applicants failure to go to his appointed place of duty at the appointed time. Some of the instances of failure to go involved alcohol abuse because the applicant would arrive late to work in a disheveled state with the odor of alcohol on his breath and person. He was also disciplined for failure to obey an order, failure to adhere to dress and appearance standards, and for a few other minor offenses.

Issue 1. Applicant contends discharge was inequitable because it involved nothing more than minor offenses. While it is true that the discharge was based on nothing more than minor offenses, that does not mean the discharge was improper or inequitable. The applicant did not contest the allegations and was actually quite forthright in his acknowledgement of his misconduct and his acceptance of responsibility. The administrative disciplinary actions taken against the applicant were perfectly appropriate and were designed to impress upon the applicant the need to stop committing these minor, but highly disruptive infractions. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. His repeated failure to do so essentially left the command with no choice but to discharge the applicant. Upgrade for this reason is not appropriate.

Issue 2. Applicant contends that he was the victim of arbitrary and capricious supervisory and command action. Although not specifically stated as an issue by the applicant, it became clear during the hearing that the applicant felt his supervisor was "out to get him." He complained that his supervisor was simply looking for things to discipline him for and that he had been singled out for negative treatment. The DRB concluded that the applicant may very well have become the focus of negative attention, but that in his case, the negative attention was the result of having committed so many infractions and not responding to the rehabilitative efforts of his supervisory chain. The applicant readily admitted that he engaged in the misconduct. It was therefore hard to find fault with the applicant's supervisors for taking disciplinary action against him. There was simply insufficient evidence suggesting the applicant had become the focus of arbitrary or capricious action by his supervisor or command chain. Upgrade for this reason is not appropriate.

Issue 3. Applicant claims that his use of alcohol impaired his ability to serve. While certainly true, the record indicates that every effort was made to stop the applicant from using alcohol and that his decision to do so was a matter of nothing more than deliberate personal choice. The applicant indicated that his drinking was not the result of dependence but, rather, was motivated by his desire to "have a good time" with his friends. The command appropriately placed the applicant in alcohol counseling, which he completed. The applicant noted that he no longer drinks except on rare social occasions. The DRB concluded that while the applicant's alcohol use may have impaired his ability to serve, he was not dependent on alcohol or embroiled in a situation in which alcohol use was beyond his control. His use of alcohol was perfectly within his control and he simply refused to accept personal responsibility to curtail his drinking. Thus, this issue does not provide a basis upon which to upgrade the discharge.

Issue 4. Applicant contends that his outstanding post-service activities and conduct provide a basis for upgrading his discharge characterization. The DRB was pleased to see that the applicant seemed to be doing well and has a good job. However, there was otherwise no evidence presented by the applicant on the issue of his post-service conduct. Given the lack of evidence of outstanding post-service conduct, it was not possible to evaluate the evidence in a meaningful way or to consider whether this was an appropriate reason to upgrade the discharge.

It should be noted that while not strictly an issue, the applicant 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 (on the DD Form 2366) indicating 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

[REDACTED]

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 17 Mar 99 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 31 Oct 76. Enlmt Age: 18 4/12. Disch Age: 22 4/12. Educ: HS DIPL. AFQT: N/A. A-35, E-52, G-42, M-58. PAFSC: 2A652 - Aerospace Ground Equipment Journeyman. DAS: 15 Aug 96.

b. Prior Sv: (1) AFRes 20 Mar 95 - 26 Dec 95 (9 Months 7 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 27 Dec 95 for 4 yrs. Svd: 3 Yrs 2 Mos 21 Das, all AMS.

b. Grade Status: AMN - 5 Jun 98 (Vacation of Article 15, 24 Jun 98)
 A1C - 27 Apr 97
 AMN - 27 Jun 96

c. Time Lost: None.

d. Art 15's: (1) 24 Jun 98, Vacation, McGuire AFB, NJ - Article 86. You, did, on or about 13 Jun 98, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AMN. (No appeal) (No mitigation)

(2) 5 Jun 98, McGuire AFB, NJ - Article 86. You, did, on or about 14 May 98, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to AMN, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 02 FEB 99 - Failure to go.
 LOR, 04 DEC 98 - Failure to go.
 RIC, 01 DEC 98 - Failure to obey an order.
 RIC, 13 JUN 98 - Late for work.
 RIC, 15 APR 98 - Violation of dress and appearance standards.
 RIC, 14 APR 98 - Violation of dress and appearance standards.
 RIC, 18 MAR 98 - Late for work with scent of alcohol on body and breath.
 RIC, 06 MAR 98 - Late for work.
 RIC, 03 MAR 98 - Failed room inspection.

RIC, 19 FEB 98 - Late for work with scent of alcohol on
body and slurred speech.
LOR, 23 JAN 98 - Late for work.
LOR, 23 DEC 97 - Failure to go.
RIC, 04 NOV 97 - Late for work.
RIC, 09 SEP 97 - Failure to obey a direct order.
RIC, 20 AUG 97 - Late for work.
RIC, 06 Aug 97 - Speeding ticket.
RIC, 15 Jul 97 - Failed CDC EOC test.
RIC, 19 Apr 97 - Late for work.
RIC, 18 Apr 97 - Late for work.
RIC, 25 Feb 97 - Reported for duty without shaving.

f. CM: None.

g. Record of SV: 27 Dec 95 - 26 Aug 97 McGuire AFB 4 (Initial)
27 Aug 97 - 04 Feb 98 McGuire AFB 3 (CRO)

(Discharged from McGuire AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (3) Yrs (11) Mos (27) Das
TAMS: (3) Yrs (2) Mos (21) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 3 Sep 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED

ATCH

1. Applicant's Statement.
2. DD Form 214.
3. Discharge Documents.
4. Character References (7).
5. Letters of Appreciation/Congratulations (3).

10 Oct 03/cr



DEPARTMENT OF THE AIR FORCE
305th Maintenance Squadron (AMC)

MEMORANDUM FOR Amn [REDACTED]

18 FEB 1999

FROM: 305 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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 for discharge is approved, your service may 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, did, at or near McGuire Air Force Base, New Jersey, on or about 2 January 99, fail to go to your appointed place of duty. For this offense you received a Letter of Reprimand dated 2 February 99.
 - b. You, did, at or near McGuire Air Force Base, New Jersey, on or about 30 November 98, fail to obey an order. You received a Letter of Counseling dated 9 December 98 for this offense.
 - c. You, did, at or near McGuire Air Force Base, New Jersey, on or about 3 December 98, fail to go to your appointed place of duty. You received a Letter of Counseling for this offense dated 4 December 98.
 - d. You, did, at or near McGuire Air Force Base, New Jersey, on or about 13 June 98, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 305th Maintenance Squadron, Building #2253, in violation of Article 86, UCMJ. For this offense you received a vacation of Article 15 action on 19 June 98, consisting of reduction to the grade of E-2 (Airman).
 - e. You, did, at or near McGuire Air Force Base, New Jersey, on or about 13 June 98, fail to report to your place of duty at the time prescribed. For this offense you received a Letter of Counseling on 13 June 98.
 - f. You, did, at or near McGuire Air Force Base, New Jersey, on or about 14 May 98, fail to go at the time prescribed to your appointed place of duty, to wit: 305th Maintenance Squadron, Building #2253, in violation of Article 86, UCMJ. For this offense you received an Article 15, consisting of suspended reduction to the grade of E-2 (Airman), which was previously vacated and 14 days extra duty.
 - g. You, did, at or near McGuire Air Force Base, New Jersey, on or about 15 April 98, fail to comply with Air Force Dress and Appearance Standards. For this offense you received a Letter of Counseling on 15 April 98.
 - h. You, did, at or near McGuire Air Force Base, New Jersey, on or about 14 April 98, fail to comply with Air Force Dress and Appearance Standards. For this offense you received a Letter of Counseling on 14 April 98.
 - i. You, did, at or near McGuire Air Force Base, New Jersey, on or about 18 March 98, arrive late for duty with a strong odor of alcohol on your body and breath. You received a Letter of Counseling for this offense on 18 March 98.
 - j. You, did, at or near McGuire Air Force Base, New Jersey, on or about 6 March 98, arrive late for duty. You received a Letter of Counseling for this offense on 6 March 98.
 - k. You, did, at or near McGuire Air Force Base, New Jersey, on or about 4 March 98, fail to have your dormitory room in inspection order. You received a Letter of Counseling on 3 March 98 for this offense.

- l. You, did, at or near McGuire Air Force Base, New Jersey, on or about 19 February 98, arrive late for duty with a strong odor of alcohol on your body and breath. You received a Letter of Counseling for this offense on 19 February 98.
 - m. You, did, at or near McGuire Air Force Base, New Jersey, on or about 22 January 98, arrive late for duty. For this offense you received a Letter of Reprimand on 23 January 98.
 - n. You, did, at or near McGuire Air Force Base, New Jersey, on or about 22 December 97, fail to report to Commander's Call. For this offense you received a Letter of Reprimand on 23 December 97.
 - o. You, did, at or near McGuire Air Force Base, New Jersey, on or about 4 November 97, arrive late for duty. You received a Letter of Counseling on 4 November 97 for this offense.
 - p. You, did, at or near McGuire Air Force Base, New Jersey, on or about 9 September 97, fail to report for duty at the time directed. You received a Letter of Counseling on 9 September 97 for this offense.
 - q. You, did, at or near McGuire Air Force Base, New Jersey, on or about 20 August 97, fail to report for duty at the time directed. You received a Letter of Counseling on 20 August 97 for this offense.
 - r. You, did, at or near McGuire Air Force Base, New Jersey, on or about 6 August 97, receive a speeding ticket on base. You received a Letter of Counseling on 6 August 97 for this offense.
 - s. You, did, at or near McGuire Air Force Base, New Jersey, on or about 9 July 97, fail your End of Course Examination with a score of 56, when passing score was 65. You received a Letter of Counseling on 15 July 97 for this failure.
 - t. You, did, at or near McGuire Air Force Base, New Jersey, on or about 19 April 97, fail to report for duty at the time directed. You received a Letter of Counseling on 19 April 97 for this offense.
 - u. You, did, at or near McGuire Air Force Base, New Jersey, on or about 18 April 97, fail to report for duty at the time directed. You received a Letter of Counseling on 18 April 97 for this offense.
 - v. You, did, at or near McGuire Air Force Base, New Jersey, on or about 24 February 97, neglect to shave, in violation of Dress and Appearance standards. You received a Letter of Counseling on 25 February 97 for this offense.
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 with Capt [REDACTED] the Area Defense Counsel, at Bldg 2906, first floor, on 19 Feb 99 at 0900 hrs. 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 23 Feb 99 (3 workdays from the date of this memorandum) 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 are scheduled for a medical examination on 22 Feb 99 at 0830.

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 the squadron orderly room.



1st Lt Col, USAF

Commander

Attachments:

1. *Letter of Reprimand (LOR) dated 2 February 99*
2. *Letter of Counseling (LOC) dated 9 December 98*
3. *LOR dated 4 December 98*
4. *LOR dated 2 September 98*
5. *Vacation action dated 19 June 98*
6. *LOC dated 13 June 98*
7. *Article 15 dated 5 June 98*
8. *Two LOC's dated 14 April 98*
9. *LOC dated 18 March 98*
10. *LOC dated 6 March 98*
11. *LOC dated 3 March 98*
12. *LOC dated 19 February 98*
13. *LOR dated 23 January 98*
14. *LOR dated 23 December 97*
15. *LOC dated 4 November 97*
16. *LOC dated 9 September 97*
17. *LOC dated 20 August 97*
18. *LOC dated 6 August 97*
19. *LOC dated 15 July 97*
20. *LOC dated 19 April 97*
21. *LOC dated 18 April 97*
22. *LOC 25 February 97*
23. **Airman's Acknowledgment of Notification Memorandum**