

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

TYPE GEN

X

PERSONAL APPEARANCE

RECORD REVIEW

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES

No

X

MEMBER SITTING

HON

GEN

UOTHC

OTHER

DENY

X

X

X

X

X

ISSUES

A67.10

INDEX NUMBER

A01.13

A93.01

A93.19

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

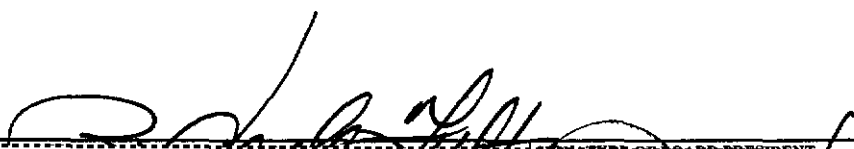
20 Feb 2004

CASE NUMBER

FD-2003-00440

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

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00440

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

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 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.

Issue 1. Applicant was discharged for minor disciplinary infractions. The records indicated the applicant received an Article 15 and three Letters of Reprimand for misconduct which consisted of a leave violation, missing a scheduled training movement, failing to report to training on time, failure to obey an instructor's order, violating an order by driving off base after his driving privileges were revoked and he was restricted to base, and drunk driving while underage. Applicant infers discharge was inequitable because it was too harsh, contending he was not fully aware of the details about the missed training movement, denying driving while off base, and not understanding the restrictions of the training phase program. The Board found no evidence to support applicant's contentions and opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior but was unwilling or unable to do so. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issue 2. Applicant noted his age when he enlisted and his lack of experience, knowledge and maturity. The Board noted applicant was age 19 when his misconduct occurred, essentially the same age as other airmen who adhere to the standards expected of them and complete their enlistments without any infractions. There is no evidence that applicant did not know right from wrong or was more immature than other airmen his age. The Board found this contention unpersuasive.

Issue 3. Applicant noted his inexperience with alcohol consumption, as well as his perception of prevalent alcohol use by his co-workers, to include others who drank under age or drove while intoxicated. While the Board realizes applicant's alcohol use may have impaired his judgment, individuals are still held accountable for their actions while under the influence of alcohol. This contention does not provide a basis to mitigate the actions that led to the discharge, or its characterization.

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)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 8 Aug 97 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 30 Apr 78. Enlmt Age: 17 7/12. Disch Age: 19 3/12. Educ: HS DIPL. AFQT: N/A. A-63, E-87, G-90, M-60. PAFSC: 1T211 - Pararescue. DAS: 24 Mar 97.

b. Prior Sv: (1) AFRes 27 Dec 95 - 11 Jun 96 (5 Months 16 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 12 Jun 96 for 4 yrs. Svd: 1 Yrs 1 Mo 29 Das, all AMS.

b. Grade Status: AB - 10 Jul 97 (Article 15, 10 Jul 97)
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 10 Jul 97, Kirtland AFB, NM - Article 111. You did, on or about 3 Jul 97, physically control a vehicle, to wit: a passenger vehicle while drunk, in violation of the UCMJ. Reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 14 JUL 97 - Failure to obey an order.
LOR, 19 JUN 97 - Failure to report on time.
LOR, 27 MAY 97 - Failure to follow instructions.

f. CM: None.

g. Record of SV: None.

(Discharged from Kirtland AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (7) Mos (13) Das
TAMS: (1) Yr (1) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 Sep 03.
(Change Discharge to Honorable)

Issue 1: Paragraph 1 of attached letter - Request for honorable discharge.

Issue 2: Final paragraph, Section Discussion of Facts for each Reason/Disciplinary action of attached letters.

Issue 3: Contributing external factors of attached letter.

Issue 4: Analysis of [REDACTED] of attached letter.

Issue 5: Time served of attached letter.

ATCH

1. Applicant's Statement.

22 Oct 03/cr

DEPARTMENT OF THE AIR FORCE
USAF Pararescue School (AETC)
3700 Randolph Ave SE
Kirtland AFB NM 87117

28 July 97

MEMORANDUM FOR Airman [REDACTED]

FROM: Det 1, 342 TRS/CC

SUBJECT: Notification of Administrative Discharge Action under AFI 36-3208

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 discharge may be characterized as honorable, general, or under other than honorable conditions. I am recommending that your discharge be characterized as general.
2. My reasons for this action are:
 - a. On 10 Jul 97, you received an Article 15, nonjudicial punishment for drunken driving, which was aggravated by your being under the legal age to consume alcoholic beverages (Atch 1). This resulted in your demotion to Airman Basic. A copy of your Article 15 is filed with the 377 JAM.
 - b. 12 Jul 97, you were seen driving your vehicle off base. This is a direct violation of an order by the 377 ABW/CV. Your base driving privileges were revoked for DWI and you were restricted to the base IAW 2AF Training Phase I. You received an LOR for this act (Atch 2).
 - c. 19 Jun 97 you were given an LOR for failing to report to training on time. You failed to obey an order by your instructor. This caused training to be delayed while the other trainees waited for your arrival (Atch 3).
 - d. 27 May 97 you were given an LOR for failing to report in from leave. By not reporting you missed scheduled training at Underwater Egress. This is a required event for your career field (Atch 4).
3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if discharge action is approved, how your discharge will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force. Furthermore, any special pay, bonuses, or education assistance you have received 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 [REDACTED] the Area Defense Counsel, Building 20140, ext. 6-5554, at 1330 hours on 28 Jul 1997. You may consult civilian counsel at your own expense.
5. You have the right to submit matters on your own behalf. Any matters you wish to submit for consideration by the separation authority must reach me within 3 duty days unless you request and receive an extension from me for good cause shown. I will forward any matters submitted by you to the separation authority.

6. If you fail to consult counsel or to submit matters in your own behalf within 3 duty days without an approved extension, your failure will constitute a waiver of your right to do so.
7. Any personal information you furnish in rebuttal to this action is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use at the office of the Area Defense Counsel, Building 20140.
8. Execute the attached acknowledgment and return it to me immediately.



Attachments:

1. Article 15, 7 Jul 97
2. LOR, 14 Jul 97
3. LOR, 19 Jun 97
4. LOR, 27 May 97