

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1.2em;"></div>			GRADE A1C		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1.2em;"></div>			
TYPE GEN	PERSONAL APPEARANCE			X	RECORD REVIEW			
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL			
YES	No							
	X							
MEMBER SITTING				VOTE OF THE BOARD				
<div style="border: 1px dashed black; width: 100%; height: 100%;"></div>				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
ISSUES A94.05		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 07 Jan 2004		CASE NUMBER FD-2003-00444						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE								
<p>Case heard at Washington, D.C.</p> <p>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</p> <div style="border: 1px dashed black; width: 100%; height: 100%;"></div>								
INDORSEMENT				DATE: 01/09/2004				
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-2003-00444

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.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Letters of Reprimand for failure to go, one Letter of Counseling for disobeying a lawful order and disrespect to a superior, and one Memorandum for Record for failure in his training. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate. Member states that if given the opportunity, he could have completed all of his basic requirements. He also states that more time and patience could have been given to him. However, the member's inability to progress in training, his disrespect towards superiors, and his failure to report to work demonstrates his disregard for Air Force rules. His behavior is incompatible with military service. The Board concluded the discharge was appropriate for the reasons, which were the basis for this case.

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]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 2 Jun 03 UP AFI 36-3208, para 5.49 & 5.26.3 (Misconduct - Minor Disciplinary Infractions & Unsatisfactory Performance). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 23 Feb 83. Enlmt Age: 18 3/12. Disch Age: 20 3/12. Educ: HS DIPL. AFQT: N/A. A-69, E-61, G-70, M-66. PAFSC: 1C631 - Space Systems Operations Apprentice. DAS: 15 Jun 02.

b. Prior Sv: (1) AFRes 31 May 01 - 3 Dec 01 (6 months 3 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Dec 01 for 6 yrs. Svd: 1 Yrs 6 Mo 0 Das, all AMS.

b. Grade Status: A1C - 17 Jul 02

c. Time Lost: None.

d. Art 15's: None.

e. Additional: MFR, 21 Mar 03 - Training history.
LOC, 14 JAN 03 - Late for duty, sleeping on duty, and disrespect to an NCO.
LOC, 28 AUG 02 - Disobeying a lawful order and disrespect to a superior.
LOR, 17 AUG 02 - Failure to go.
LOR, 07 AUG 02 - Failure to go.

f. CM: None.

g. Record of SV: 4 Dec 01 - 15 Apr 03 Schriever AFB 1 (Cmdr Dir) REF
(Discharged from Schriever AFB)

h. Awards & Decs: AFOUA, NDSM, AFTR, BSMB.

i. Stmt of Sv: TMS: (2) Yrs (0) Mos (3) Das
TAMS: (1) Yrs (6) Mos (0) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 9 Sep 03
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority

for Discharge)

Issue 1: I think that given the opportunity I could have complete (sic) all of my basic requirements and that I could have (and would possibly (sic)) like to complete an even higher level of training. If more time and patience had been given to my career and situation. I am requesting an upgrade to "Honorable" discharge; my re-entry code upgraded to "1-A"; and my "Narrative Reason for Separation corrected to read "Training-Incomplete" (or something to that effect.

ATCH

1. DD Form 214.

7OCT03/ia



DEPARTMENT OF THE AIR FORCE

50TH SPACE WING (AFSPC)

MEMORANDUM FOR A1C [REDACTED]

MAY 14 2003

FROM: 2 SOPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically minor disciplinary infractions, and for unsatisfactory performance, specifically failure to progress in on the job training. The authority for this action is AFD 36-32 and AFI 36-3208, paragraphs 5.49., and 5.26.3. If my recommendation is approved, your service will be characterized as honorable or general under honorable conditions (general). I am recommending that your current term of service be characterized as general.

2. My reasons for this action are:

a. On or about 5 Aug 02, you failed to report to bay orderly duty at the time prescribed. The Dorm Chief attempted to knock on your dorm room door, to no avail. The Dorm Manager then used the master key to check your room, you were found still in bed. Also you were derelict in the performance of your duties during your week of bay orderly duty in that the Dorm Manager observed you twice playing video games while on duty. This constituted a violation of Articles 86, and 92, Uniform Code of Military Justice (UCMJ). As a result, you received a Letter of Reprimand (LOR), dated 7 Aug 02. (Atch 1a).

b. On or about 15 Aug 02, you failed to report to duty. At approximately 1030 hours, the First Sergeant, MSgt [REDACTED] contacted you and asked you why you were not at work, which you replied, "I work tomorrow sir". MSgt [REDACTED] informed you that you were scheduled to work a shift that day and to report to work immediately. This was your second failure to report at the time prescribed. This constituted a violation of Article 86, UCMJ. As a result you received a Letter of Reprimand, dated 17 Aug 02. (Atch 1b).

c. On or about 27 Aug 02, you failed to obey a direct order and showed disrespect toward a noncommissioned officer. SSgt [REDACTED] was escorting 6 contractors and asked you to escort 3 of the contractors because they needed to branch off and would not be within his visibility. You replied to Sgt [REDACTED] that you could not do so because you needed to go do a support. Sgt [REDACTED] seeing that you were just standing around watching, he again asked you several times to escort 3 of the contractors, and you again replied several times that you could not because you had to do a support. At that time, Sgt [REDACTED] then gave you a direct order to escort the 3 contractors and you huffed and nonchalantly walked over to them. This constituted a violation of Articles 91, and 92, UCMJ. As a result, you received a Letter of Counseling (LOC), dated 28 Aug 02. (Atch 1c).

d. On or about 12 Jan 03, you failed to report at the time prescribed for your dayshift as a trainee on Delta Crew. On that same day you were found sleeping in the conference room during duty hours. You were directed that day to report to your crew commander, MSgt [REDACTED] on Monday in BDU's at 0730 hours. On Monday you again failed to go at the prescribed time and also reported to MSgt [REDACTED] with no chevrons on your BDU shirt. Furthermore, after the counseling session with MSgt [REDACTED] he observed you arguing with SSgt [REDACTED] in the breakroom. This constituted a violation of Articles 91, and 92, UCMJ. As a result you received an LOC, dated 14 Jan 03. (Atch 1d).

e. Between on or about 17 Jun 02 to 14 Mar 03, you failed to satisfactorily progress in Unit Qualification Training (UQT). Specifically, on 9 Aug 02, you failed your End of Phase (EOP) I written test with a score of 58%. On 7 Nov 02, you failed your EOP II evaluation with an unsatisfactory analysis result. On 29 Jan 03, you failed your second EOP II evaluation with an unsatisfactory analysis result. The 50 OSS Initial Plan of Instruction (IPOI) allows trainees sixty-four days from your training start date to complete two EOP test, two EOP scenario's, and a pre-evaluation. Your UQT began on 17 Jun 02. You should have completed UQT on or about 20 Aug 02. Your lack of progression has placed you nearly eight months overdue in training. UQT is essential in preparing an individual for Combat Mission Ready (CMR) or Basic Mission Ready (BMR) status. If you are unable to qualify in UQT, it will be extremely difficult for you to become certified for a CMR or BMR position. You have far exceeded the training time allowed in the Satellite System Operator position and are lacking the ability to complete your UQT. (Atch 1e).

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 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 the Area Defense Counsel (ADC), at Peterson AFB, on **16 May 03 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 within **3 duty days** from the date you receive this memorandum of notification 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 complete the attached


DD Form 2697 (Atch 5) and report to the Peterson AFB Primary Care Clinic for your scheduled appointment on 14 May 03 at 1520 hrs. You must arrive 15 minutes prior to the scheduled appointment time.

8. You must report to MPF Separations on 14 May 03 at 1130 hrs to receive a briefing.

9. 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 unit orderly room.

 14 MAY 03
Lt Col, USAF
Commander, 2nd Space Operations Squadron

Attachments:

1. Derogatory Data:
 - a. LOR, 7 Aug 02
 - b. LOR, 17 Aug 02
 - c. LOC, 28 Aug 02
 - d. LOC, 14 Jan 03
 - e. MFR (by MSgt , 21 Mar 03, Training Records
2. Airman's Receipt of Notification
3. Airman's Statement
4. Recoupment Statement
5. DD Form 2697