

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
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COUNSEL	YES	No	NAME OF COUNSEL AND OR ORGANIZATION ████████████████████ Montgomery County Veterans Agency	ADDRESS AND OR ORGANIZATION OF COUNSEL ████████████████████ Fonda, NY 12068
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MEMBER SITTING	VOLE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A93.01 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 06 Jan 2004	CASE NUMBER FD-2003-00474	
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APPLICANT'S DESIRE AND THE BOARD'S POSITION ON MATTER 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
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

FD2003-00474

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

The applicant was offered a personal appearance before the Discharge Review Board 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 reenlistment code change are denied.

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

Issue 1. Applicant contends discharge was inequitable because it was too harsh. Applicant was discharged for minor disciplinary infractions. She had an Article 15 and two Letters of Reprimand. Her misconduct included three under-age drinking incidents, making a false official statement, and assaulting a civilian. In spite of participating in a drug and alcohol rehabilitation program, member's misconduct continued. At the time of the discharge, member consulted counsel and submitted a statement in her own behalf requesting probation and rehabilitation, or in the alternative an honorable discharge. The Board noted member was given several opportunities to correct her behavior but was either unwilling or unable to do so. Because member was responsible for her actions, she was held accountable for them. The Board found nothing during the course of the record review to warrant an upgrade. There was no inequity or impropriety, thus the characterization of service was deemed appropriate in view of the repeated misconduct.

Issue 2. Applicant contends that she should not be penalized indefinitely for a mistake she made when young. The DRB recognized the applicant was 18 years of age when the discharge took place. However, there is no evidence she was immature or did not know right from wrong. The Board opined the applicant was as old as the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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 AB) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 18 Aug 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 14 Jul 84. Enlmt Age: 18 2/12. Disch Age: 19 1/12. Educ: HS DIPL. AFQT: N/A. A-44, E-39, G-37, M-32. PAFSC: 3A031 - Information Management Apprentice. DAS: 19 Jul 02.

b. Prior Sv: (1) AFRes 25 Sep 01 - 25 Feb 00 (5 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 26 Feb 02 for 4 yrs. Svd: 1 Yrs 5 Mo 24 Das, all AMS.

b. Grade Status: AB - 14 Apr 03 (Article 15, 14 Apr 03)
Amn - 26 Aug 02

c. Time Lost: None.

d. Art 15's: (1) 14 Apr 03, Wright-Patterson AFB, OH - Article 92. You, were, on or about 20 Mar 03, derelict in the performance of your duties in that you failed to refrain from consuming alcoholic beverages while under 21 yrs of age, as it was your duty to do. Article 107. You, did, on or about 21 Mar 03, with intent to deceive, make to SSgt [REDACTED] an official statement, to wit: "I can't remember what happened the night of 20 Mar 03," or words to that effect, which statement was totally false, and was then known by you to be so false. Reduction to AB, and 14 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 29 MAY 03 - Assaulting a civilian and underage drinking.

LOR, 21 NOV 02 - Consuming alcohol under the legal age.

f. CM: None.

g. Record of SV: None.

(Discharged from Wright-Patterson AFB)

h. Awards & Decs: NDSM, BMTR.

i. Stmt of Sv: TMS: (1) Yrs (10) Mos (25) Das
TAMS: (1) Yrs (5) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 1 Oct 03.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I feel that the punishment given was sufficient and that to give me a general discharge was unfair. I want to continue my military career in the Air Force Reserve and would like to have my discharge upgraded to honorable so that I may continue my career.

I was young and made some mistakes which I have apologized for, but do not feel that I should be penalized for the rest of my life.

ATCH

1. Response to Administrative Discharge Action.
2. DD Form 214.
3. AF Form 100.

17NOV/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 88TH AIR BASE WING (AFMC)
WRIGHT-PATTERSON AIR FORCE BASE OHIO

24 Jul 03

MEMORANDUM FOR AB [REDACTED]

FROM: 88 CS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct – Minor Disciplinary Infractions, paragraph 5.49. The authority for this action is AFPD 36-32 and AFI 36-3208. If my recommendation is approved, your service will be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. On or about 24 Sep 02, a Security Forces investigation revealed that you, on numerous occasions, consumed alcohol while being underage. This is in violation of Article 92 of the Uniform Code of Military Justice. For this you received a Letter of Reprimand dated 21 Nov 02, and an Unfavorable Information File was established.

b. On or about 20 Mar 03 and 21 Mar 03, you again failed to refrain from consuming alcohol while underage and made a false official statement. This is in violation of Articles 92 and 107 of the Uniform Code of Military Justice. For this you received an Article 15, annotated on DD Form 3070, dated 22 Apr 03.

c. On or about 4 May 03, you once again consumed alcohol, underage, and were accused of assault. This is in violation of Articles 92 and 128 of the Uniform Code of Military Justice. For this you received a Letter of Reprimand dated 29 May 03 and this discharge action was initiated.

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, and any special pay, bonus, or education assistance funds may be subject to recoupment.

4. Military legal counsel, Captain [REDACTED] Area Defense Counsel, Building 199, Kittyhawk Area, Wright-Patterson AFB, OH, (937) [REDACTED], has been obtained to assist you. An appointment has been scheduled for you to consult her on 24 Jul 03 at 1400. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201, *Administration of Military Justice*. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

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 working days of your receipt of this letter, unless you request and receive an extension for good cause shown. I will send your statements 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 must schedule yourself for a medical examination through Tricare or your Primary Care physician.

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 orderly room.

A large, irregular black redaction mark covers the signature area of the letter.

1, Lt Col, USAF
Commander

Attachments:

1. Letter of Reprimand, 21 Nov 02
2. AF Form 1058, 21 Nov 02
3. DD Form 3070, 22 Apr 03
4. Letter of Reprimand, 29 May 03
5. AF Form 1058, 6 Jun 03
6. Airman's Receipt of Notification