

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	PERSONAL APPEARANCE	X	RECORD REVIEW
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YES	No	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
	X		

MEMBER SITTING	VOICE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
	X				
	X				
	X				
					X

ISSUES A01.04 A01.18 A01.32 A01.56	INDEX NUMBER A49.00	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 08 Jan 2004	CASE NUMBER FD-2003-00502	
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APPLICANT'S ISSUES 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, and the right to submit an application to the AFBCMR.

[Signature]

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2003-00502

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change his 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 Board grants partial relief; the discharge is upgraded to honorable. Change of reason and authority for the discharge, and change of reenlistment code are denied.

The Board finds that the evidence of record substantiates an impropriety that justifies a change of discharge.

Applicant received a general discharge for unsatisfactory performance, failure to progress in on-the-job training, after twice failing his Career Development Course (CDC) End of Course exam. Additionally, the records indicated the applicant received an Article 15 and five Letters of Reprimand for misconduct. His infractions included three incidents of being late for work, unauthorized body piercing, numerous traffic violations, and assaulting another military member. At the time of the discharge applicant's commander notified him that he was being recommended for an honorable discharge based only on his CDC failures. The letter of notification failed to reference the other derogatory information in member's records, and failed to list those documents as attachments to the notification. Apparently in view of his expectation of receiving an honorable discharge as recommended, and without being cognizant that the decision authority would have access to the other derogatory records, the member waived his right to consult counsel or submit statements in his own behalf. The decision authority was however provided information about the member's misconduct, and the legal review suggested that member should receive a general discharge, vice honorable, in view of member's extensive record of misconduct. The decision authority acted on that recommendation and directed member be given a general discharge, without the benefit of member being aware the derogatory information had been considered. This was improper and was a harmful error to applicant's detriment. Member was not given full due process of knowing what information would be considered for his characterization of service, or the opportunity to respond to it.

The DRB noted however that the reason for discharge was unsatisfactory performance in accordance with AFI 36-3208, paragraph 5.26.3, failure to progress in on-the-job training. This reason includes individuals who fail to upgrade in a timely manner or as is in this case, failed to pass the Career Development Course (CDC) exam twice. The Board concluded therefore that the reason and authority for the discharge received by the applicant, as well as the reenlistment code, were appropriate.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was not consistent with the procedural and substantive requirements of the discharge regulation and that the applicant was not provided full administrative due process.

In view of the foregoing findings the Board further concludes that the overall quality of applicant's service is more accurately reflected by an honorable discharge. The applicant's characterization of discharge should be changed to honorable 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

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

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 25 Jun 03 UP AFI 36-3208, para 5.26.3 (Unsatisfactory Performance - Failure to Progress in On-The-Job Training). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 30 Mar 83. Enlmt Age: 18 0/12. Disch Age: 20 2/12. Educ: HS DIPL. AFQT: N/A. A-57, E-56, G-57, M-57. PAFSC: 2T231 - Air Transportation Apprentice. DAS: 11 Dec 01.

b. Prior Sv: (1) AFRes 30 Mar 01 - 6 Aug 01 (4 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 7 Aug 01 for 4 yrs. Svd: 1 Yr 10 Mos 19 Das, all AMS.

b. Grade Status: A1C - 7 Dec 02
AMN - 7 Feb 02

c. Time Lost: None.

d. Art 15's: (1) 20 Jan 03, Lajes Field, Azores - Article 128. You, did, in the first floor dayroom of building T-131, on or about 2 Jan 02, assault SrA [REDACTED] by striking him in the face with your fist. Suspended reduction to AB (set aside), 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 16 MAY 03 - Numerous traffice violations
LOR, 02 MAY 03 - Failure to go.
EOC, 04 APR 03 - End of Course failure.
LOC, 18 APR 03 - Computer password compromise.
LOR, 14 FEB 02 - Late for work.
EOC, 27 DEC 02 - End of Course failure.
LOR, 08 NOV 01 - Failure to follow rules and regulations, and lying.
LOR, 08 NOV 01 - Late for work, illegal possession of tobacco products, unauthorized body piercing, and lack of military bearing.

f. CM: None.

g. Record of SV: 7 Aug 01 - 6 Apr 03 Lajes Field 4 (Initial)

(Discharged from Andrews AFB)

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

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (27) Das
TAMS: (1) Yrs (10) Mos (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 16 Oct 03.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: The effect on my civilian life and career. The opportunity to receive (sic) a full time job with chance of progression into a career. Loss of military benefits to increase personal knowledge and expand future education.

ATCH

1. Applicant's Letter to the Discharge Review Board, 16 Oct 03.

4NOV03/ia



DEPARTMENT OF THE AIR FORCE
729TH AIR MOBILITY SQUADRON (AMC)
LAJES FIELD AZORES PORTUGAL

27 May 03

MEMORANDUM FOR A1C [REDACTED]

FROM: 729 AMS/CC

SUBJECT: Discharge Notification Letter

1. I am recommending your discharge from the United States Air Force for failure to progress in on-the-job training. The authority for this action is AFPD 36-32 and AFI 36-3208, section 5E, Unsatisfactory Performance, paragraph 5.26.3. If my recommendation is approved your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as honorable.

2. My reasons for this action are:

(1) On 10 Dec 02, you failed to make the minimum passing score on your end of course examination. This is evidenced by a Report of Course Examination, dated 27 Dec 02.

(2) On 27 Mar 03, you failed to make the minimum passing score on your end of course examination. This is evidenced by a Report of Course Examination, dated 4 Apr 03.

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 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, located at Ramstein AB, Germany, telephone DSN [REDACTED] 480 [REDACTED] has been obtained to assist you. I have made an appointment for you to consult with the Area Defense Counsel, on ___ May 03 at _____. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 30 May 03 (3 workdays) 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 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 report to 65 Medical Group, building T-427, in uniform, on 27 May 03 at 0900 hours for the examination. If you wear glasses, you will need to bring them to the appointment. Call Physical Exams at extension 2-3474 if you have any questions.

AMC -- GLOBAL REACH FOR AMERICA

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.


Lt Col, USAF
Commander

Attachments:

1. Report of Course Examination, dated 27 Dec 02
2. Report of Course Examination, dated 4 Apr 03
3. Receipt of Notification Memorandum