

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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|--|----------------------------|---|--|--------------|
| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████ | | GRADE AB | AFSN/SSAN ██████████ | |
| TYPE GEN | PERSONAL APPEARANCE | X | RECORD REVIEW | |
| NAME OF COUNSEL AND OR ORGANIZATION | | ADDRESS AND OR ORGANIZATION OF COUNSEL | | |
| YES | No | | | |
| | X | | | |
| MEMBER SITTING | | REASON FOR DENIAL | | |
| | | HON | GEN | UOTHC |
| | | | | OTHER |
| | | | | DENY |
| | | | | X |
| | | | | X |
| | | | | X |
| | | | | X |
| | | | | X |
| ISSUES | INDEX NUMBER | ITEMS TO BE HEARD | | |
| A01.13 A94.03 A93.21 | A67.10 | 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 | | | |
| 20 Feb 2004 | FD-2003-00513 | | | |

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.

[Handwritten Signature]

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| 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-2003-00513

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: Applicant was discharged for minor disciplinary infractions. The records indicated applicant was habitually late to work or failed to go and received an Article 15, three Letters of Reprimand, a Letter of Admonishment, a Record of Individual Counseling, another memorandum documenting his misconduct, had an Unfavorable Information File, and was placed on the Control Roster. At the time of the discharge processing, applicant consulted counsel and waived his right to submit a statement in his own behalf. Applicant now contends he learned after his discharge that he has muscular dystrophy, and he believes a more thorough medical examination while in the military should have disclosed this, which he believes was the cause of his inability to wake up. The records reflected applicant was evaluated for a sleep disorder, but ultimately a sleep disorder was ruled out; it was determined his habitual lateness was due to poor sleep hygiene, such as staying up until 4:00am, only getting about 4 hours of sleep per night, drinking a full pot of caffeinated coffee per day, and smoking about an hour before going to bed. After changing these sleep habits, and keeping a sleep diary for 2 weeks, the member had rated his sleep as of fair to good quality with fair to good daytime alertness and no night awakenings. Furthermore, on one occasion when applicant was late to work he went to the emergency room and reported he had passed out for unknown reasons. After being scheduled for some very expensive medical tests, it was learned the truth was that member had fallen back asleep after the alarm had rang, and he fabricated the story to avoid getting in trouble for being late again. There were no entries in member's medical record while he was in the Air Force to indicate he had muscular dystrophy at that time, or that any medical condition had contributed to his habitual lateness. The DRB opined that through the unit's myriad administrative actions, the applicant had ample opportunities to change his repetitive, negative behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members, and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

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 20 Aug 99 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Aug 79. Enlmt Age: 19 0/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-67, E-81, G-72, M-96. PAFSC: 2A531E - Aerospace Maintenance Apprentices. DAS: 22 Mar 99.

b. Prior Sv: (1) AFRes 14 Aug 98 - 27 Sep 98 (1 month 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 28 Sep 98 for 4 yrs. Svd: 0 Yrs 10 Mo 24 Das, all AMS.

b. Grade Status: AB - 19 Jul 99 (Article 15, 19 Jul 99)
 Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 19 Jul 99, Dyess AFB, TX - Article 86. You, did, on or about 9 Jul 99, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

e. Additional: LOR, 13 AUG 99 - Late for work.
 LOA, 09 JUL 99 - Failed room inspections.
 LOR, 23 JUN 99 - Late for work.
 RIC, 11 MAY 99 - Late for work.
 LOR, 23 APR 99 - Late for work and making a false statement.
 MEMO, 26 MAR 99 - Late for work.

f. CM: None.

g. Record of SV: None.

(Discharged from Dyess AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (0) Mos (7) Das
 TAMS: (0) Yrs (10) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 29 Oct 03.
(Change Discharge to Honorable)

Issue 1: I was discharged from the Air Force because I had great difficulty in waking up (despite having 5 alarm clocks and a television as aids to wake me up) in time to report for duty. Consequently, I received numerous letters of counseling and other disciplinary actions, including an Article 15, for failure to report.

I had no other "disciplinary problems", and I was never given a medical exam to determine if my problem was caused by a physical condition over which I had no control. Apparently, the military chose to believe I just didn't want to go to duty on time, and disciplined me accordingly. A thorough medical examination would have revealed what I only found out after discharge - I have muscular dystrophy, and as indicated in the documents listed above, this condition is the root cause of the problems that led to my discharge.

I believe the military should have determined my physical problem at least during the service, if not at entry, during the entrance physical. Since they did not, I was punished unfairly, and this can only be corrected through an upgrading to honorable discharge. Thank you for your time and consideration.

ATCH

1. Medical Diagnosis, 26 Oct 03.
2. Medical Diagnosis, 3 Oct 03.
3. Letter of Support, 25 Oct 03.

10DEC03/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 7TH BOMB WING (ACC)
DYESS AIR FORCE BASE, TEXAS

PD 2003-00513

16 AUG 99

MEMORANDUM FOR AMN [REDACTED]

FROM: 28 BS/CC

SUBJECT: Addendum to Notification Letter

1. On 11 Aug 99, you were served with notification for discharge. LAW AFI 36-3208, paragraph 6.5, I forward to you additional derogatory data that will be added to your reasons for discharge listed in the Notification for Discharge letter, dated 11 Aug 99, paragraph 2. This derogatory data can be used to characterize your discharge and may also be considered on the issue of probation and rehabilitation.

You did, on 13 Aug 99, without authority report 30 minutes late for duty, for which you were reprimanded, as evidenced by LOR, dated 13 Aug 99.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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.

3. 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 Capt. [REDACTED] Area Defense Counsel, on 17 Aug 99 at 1430 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 20 Aug 99, 0800 hours, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFPD 36-32 and AFI 36-3208 is available for your use in the orderly room.

8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]
Lt Col, USAF
Commander, 28 BS

Attachments:

1. Airman's Receipt of Letter of Notification
2. LOR, dated 13 Aug 99

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 7TH BOMB WING (ACC)
DYESS AIR FORCE BASE, TEXAS

PD 2003-00513

11 Aug 99

MEMORANDUM FOR AB [REDACTED]

FROM: 28 BS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is AFI 36-3208, paragraph 5.49, dated 14 Oct 94. If my recommendation is approved, your service will be characterized as Honorable or General. I am recommending that your service be characterized as General (Under Honorable Conditions).

2. My reasons for this action are:

a. You did, on 9 Jul 99, without authority, report late for duty, for which you received Article 15 punishment, as evidenced by AF Form 3070, dated 20 Jul 99.

b. You were, on 9 Jul 99, derelict in the performance of your duties in that you failed to maintain your on-base dormitory room in accordance with military standards, for which you were admonished and entered into the unfavorable file, as evidenced by LOA, dated 9 Jul 99, and AF Form 1058, dated 15 Jul 99.

c. You did, on 23 Jun 99, without authority, report late for duty, for which you were reprimanded, as evidenced by LOR, dated 23 Jun 99.

d. You did, on 6 May 99, without authority, report late for duty, for which you were counseled, as evidenced by AF Form 174, dated 5 May 99.

e. You did, on 3 May 99, without authority, report for duty one hour late, for which you were counseled, as evidenced by AF Form 174, dated 11 May 99.

f. You did, on 7 Apr 99, without authority, report late for duty, for which you were counseled, as evidenced by AF Form 174, dated 11 May 99.

g. You did, on 23 Apr 99, make a false official statement to Capt [REDACTED] in that you reported to sick call and stated that you had passed out on the floor of your dormitory room for one hour, that you were awakened only after your roommate tripped over you and that you had the worst headache of your life, a statement that was false and known by you to be false, for which you were reprimanded, entered into the unfavorable information file, and placed on the control roster, as evidenced by LOR, dated 23 Apr 99, and AF Form 1058, dated 14 May 99.

h. You did, on 26 Mar 99, without authority, report late for roll call, for which you were verbally counseled, as evidenced by MFR, dated 26 Mar 99.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or 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.

3. 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 Capt [REDACTED] Area Defense Counsel, on 13 Aug 99 at 0900 hours. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 16 Aug 99, 0800 hours, unless you request and receive an extension for good cause shown. I will send them to the separation authority.
5. 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.
6. You have been scheduled for a medical examination on 11 Aug 99, at 0900 hours, at the 7th Medical Group Hospital, Physical Exams Section.
7. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFPD 36-32 and AFI 36-3208 is available for your use in the orderly room.
8. Execute the attached acknowledgment and return it to me immediately.


Lt Col, USAF
Commander, 28 BS

Attachments:

1. Airman's Receipt of Letter of Notification
2. AF Form 3070, dated 20 Jul 9
3. LOA, dated 9 Jul 99
4. AF Form 1058, dated 15 Jul 99
5. LOR, dated 23 Jun 99
6. AF Form 174, dated 5 May 99
7. MFR (2)
8. LOR, dated 23 Apr 99
9. Memorandum for 28 BS/CCF, dated 26 Apr 99
10. AF Form 1058, dated 14 May 99
11. MFR, dated 26 Mar 99