

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2003-00563

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: The Board grants the requested relief.
The discharge is upgraded to Honorable.

The Board finds that the evidence of record does substantiate an impropriety that would justify a change of discharge. The Board finds the applicant's reason and authority for discharge improper.

ISSUE:

The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found evidence of an impropriety in this case on which to base an upgrade of discharge. The records indicated the applicant received three Letters of Reprimand and a Letter of Counseling. The misconduct included two civilian arrests and conviction for Driving Under the Influence, speeding, missed appointment, and citation for expired registration. The records also indicated that the member had served 6 years, 4 months, and 9 days of total military service and was entitled to a hearing by an administrative discharge board. A review of the records, to include the administrative discharge notification letter, indicated that the member was not notified of his opportunity to request an administrative discharge board. The Board concluded that the reason and authority for discharge was improper. However, the Board did not condone the applicant's misconduct.

CONCLUSIONS: The Board concluded that the applicant's discharge was not consistent with the procedural and substantive requirements of the discharge regulation and that the improprieties in this record require a change to his service characterization. The Board concluded that the applicant's service is more accurately reflected by an Honorable discharge and change of reason for discharge to Secretarial Authority, 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

(Former SRA) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 31 Jan 03 UP AFI 36-3208, para 5.51 (Misconduct - Civilian Conviction). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 4 Sep 78. Enlmt Age: 18 0/12. Disch Age: 24 4/12. Educ: HS DIPL. AFQT: N/A. A-79, E-82, G-70, M-82. PAFSC: 2A353J - Tactical Aircraft Maintenance Journeyman. DAS: 2 Jan 01.

b. Prior Sv: (1) AFRes 23 Sep 96 - 5 Aug 97 (10 months 14 days) (Inactive).
(2) Enlisted as A1C 6 Aug 97 for 4 yrs. Extended 19 Aug 99 for 5 months. Svd: 3 yrs 6 months 23 days, all AMS. SrA - 6 Dec 99. EPRs: 5,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SrA 2 Mar 01 for 6 yrs. Svd: 1 Yr 10 Mos 29 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 25 NOV 02 - Civil arrest and conviction for DUI and speeding.

LOR, 18 OCT 02 - Missed appointment.

LOC, 04 JUN 02 - Citation for expired registration.

LOR, 22 OCT 01 - Civil arrest and conviction for DUI.

f. CM: None.

g. Record of SV: 23 Oct 00 - 01 Oct 01 Edwards AFB 2 (CRO) **REF**
02 Oct 01 - 01 Aug 02 Edwards AFB 4 (CRO)

(Discharged from Edwards AFB)

h. Awards & Decs: AFAM W/1 OLC, AFTR, AFOSSTR, AFLSAR, NCOPMER, NDSM, AFGCM, MBOB.

i. Stmt of Sv: TMS: (6) Yrs (4) Mos (9) Das
TAMS: (5) Yrs (5) Mos (26) Das

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4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 17 Dec 03.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

22JAN04/ia



DEPARTMENT OF THE AIR FORCE
31ST TEST AND EVALUATION SQUADRON (ACC)
EDWARDS AIR FORCE BASE, CALIFORNIA

MEMORANDUM FOR SRA [REDACTED] 31 TES

FROM: 31 TES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a civilian conviction. The authority for this action is AFPD 36-32 and AFI 36-3208, para 5.51. If my recommendation is approved, your discharge will be characterized as honorable, under honorable conditions (general) or under other than honorable conditions. I am recommending that your service be characterized as general.
2. The basis for this action (sections a. and c.) and my reasons for the recommended characterization (sections a. through d.) are as follows:
 - a. On 14 Jul 01, you were derelict in the performance of your duties, in that you were stopped by civilian authorities in Rosamond, CA and charged with and subsequently convicted of Driving Under the Influence, as evidenced by Letter of Reprimand dated 22 Oct 01 (Atch 1.1).
 - b. On 28 May 02, you were derelict in the performance of your duties, in that you were cited by 95 SFS for a vehicle with expired registration (citation #A198290). Upon initial discussion with you after the citation was issued, you stated that you had been deployed and had not gotten your vehicle registered. Further investigation revealed you had not sent out your registration prior to receiving the citation, as evidenced by Letter of Counseling dated Jun 02 (Atch 1.2).
 - c. On 30 Aug 02, you were derelict in the performance of your duties, in that you were stopped by the California Highway Patrol (CHP) for traveling 60MPH in a 40MPH zone. Upon being pulled over the CHP patrolman noticed possible evidence of intoxication. Field sobriety tests administered at the scene supported this conclusion and you were arrested for and subsequently convicted of Driving Under the Influence, as evidenced by Letter of Reprimand dated 26 Nov 02 (Atch 1.3).
 - d. On 17 Oct 02, you were derelict in the performance of your duties, in that you failed to attend your mandatory ADAPT Outpatient Treatment Program appointment, as evidenced by Letter of Reprimand dated 18 Oct 02 (Atch 1.4).
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 convening authority (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.

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 ADL at Bldg 2670 on 7 Jan 03 at 1000 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 by 10 Jan 03 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 report to the Physical Examination Section, Flight Surgeon's Office, Bldg 3925 at ¹⁰⁰⁵~~0730~~ on 8 Jan 03 for the examination.

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.


Commander

Attachments:

- 1. Notification Memorandum:
 - 1.1 Letter of Reprimand dated 22 Oct 01
 - 1.2 Letter of Counseling dated Jun 02
 - 1.3 Letter of Reprimand dated 26 Nov 02
 - 1.4 Letter of Reprimand dated 18 Oct 02
- 2. Airman's Receipt of Notification/Recoupment Memorandum
- 3. Airman's Statement
- 4. EPRs