

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]		<b>GRADE</b> AMN	<b>AFSN/SSAN</b> [REDACTED]			
<b>TYPE GEN</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>			
<b>COUNSEL</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<b>YES</b>	<b>No</b>	[REDACTED]				
<b>X</b>		[REDACTED]				
<b>MEMBER SITTING</b> <div style="border: 1px dashed black; height: 150px; width: 100%;"></div>		<b>VOTE OF THE BOARD</b>				
		<b>HON</b>	<b>GEN</b>	<b>UOTHC</b>	<b>OTHER</b>	<b>DENY</b>
						X
						X
						X
						X
<b>ISSUES</b> A02.17 A93.33 A94.05		<b>INDEX NUMBER</b> A67.10		<b>EXHIBITS SUBMITTED TO THE BOARD</b>		
				<b>1</b>	ORDER APPOINTING THE BOARD	
				<b>2</b>	APPLICATION FOR REVIEW OF DISCHARGE	
				<b>3</b>	LETTER OF NOTIFICATION	
				<b>4</b>	BRIEF OF PERSONNEL FILE	
					COUNSEL'S RELEASE TO THE BOARD	
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
					TAPE RECORDING OF PERSONAL APPEARANCE	
<b>HEARING DATE</b> 15 Oct 2004		<b>CASE NUMBER</b> FD-2004-00008				
<b>APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE</b>						
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						
<b>INDORSEMENT</b>				<b>DATE: 10/15/2004</b>		
<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742			<b>FROM:</b> 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-2004-00008**

**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 the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

**ISSUES:** Applicant contends discharge was inequitable because it was too harsh. He contends he received his second Article 15 for an administrative error, however, records indicate he lied to personnel in his chain about receiving approval for taking leave. Additionally, the records indicated the applicant received two Article 15s, four Letters of Reprimand, one Letter of Counseling and two Memorandums for Record for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior.

Issue 2. Applicant states his counsel was ineffective and claims he was singled out for punishment. Without further evidence to the contrary, applicant was afforded the opportunity to meet with his lawyer and was provided counsel on his case. Review of his records indicates he received appropriate punishment for his actions, not his opinions. The Board concluded the discharge was appropriate for the reasons, which were the basis for this case. 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.

**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

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 26 Jul 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Jul 82. Enlmt Age: 18 0/12. Disch Age: 21 0/12. Educ: HS DIPL. AFQT: N/A. A-55, E-65, G-66, M-88. PAFSC: 2A551J - Aerospace Maintenance Journeyman. DAS: 16 Jun 01.

b. Prior Sv: (1) AFRes 21 Jul 00 - 19 Sep 00 (2 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 20 Sep 00 for 4 yrs. Svd: 2 Yrs 10 Mo 7 Das, all AMS.

b. Grade Status: Amn - 14 May 03 (Vacation of Article 15, 18 Jun 03)  
A1C - 20 Jul 01

c. Time Lost: None.

d. Art 15's: (1) 18 Jun 03, Vacation, RAF Mildenhall, UK - Article 107. You did, on or about 26 May 03, with intent to deceive, make to [REDACTED] an official statement, to wit: [REDACTED] said that you could go on leave, which statement was totally false, and was then known by you to be so false. Reduction to Airman. (No appeal) (No mitigation)

(2) 14 May 03, RAF Mildenhall, UK - Article 92. You, who knew or should have known of your duties, on or about 28 Apr 03, were derelict in the performance of those duties in that you negligently failed to remain awake on five separate occasions, as it was your duty to do. Suspended reduction to Airman. Forfeiture of \$75.00 pay. (No appeal) (No mitigation)

e. Additional: MFR, 28 JAN 03 - Failure to go.  
MFR, 05 NOV 02 - Failure to go.  
LOR, 19 OCT 02 - Drunk on duty.  
LOR, 17 SEP 02 - Missed appointment.  
LOR, 16 AUG 02 - Late for duty.  
LOR, 13 MAR 02 - Missed appointment and uniform and hair out of regulation.  
LOC, 06 MAR 02 - Missed appointment, followup failure of

room inspection, lack of respect for an  
Officer, and late for work.

f. CM: None.

g. Record of SV: 20 Sep 00 - 19 May 02 RAF Mildenhall 3 (Initial)

(Discharged from Scott AFB)

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

i. Stmt of Sv: TMS: (3) Yrs (0) Mos (7) Das  
TAMS: (2) Yrs (10) Mos (7) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 8 Jan 04.  
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

**ATCH**

1. Applicant's Issues.

5FEB04/ia

DD Form 293 Continuation

The type of discharge that I received was inadequate in my opinion. The main issue was that I received an Article 15 for falling asleep in my shop during work hours. Prior to receiving this Article 15 I had put in a request to go on leave. I was informed by my supervisor that once my hearing for my Article 15 was complete then my leave would be approved. I attended my hearing and the majority of the discipline was suspended. I went and reported to my supervisor that the hearing was over and he granted me leave. The administration office failed to have all the paperwork filled out when the hearing was conducted and two days later they were looking for me to sign some forms. My supervisor advised them that I had gone on leave and it was determined that I had tried to scheme my leave without getting punished.

This was far from the truth. I had never had an article 15 and never attended any type of hearing for this. I was under the assumption that the whole thing was over. I had no intention of deceiving anyone. There would be no point for me to try and deceive anyone based on the fact that the majority of the punishment was suspended. After I returned from leave I was informed that they had been looking for me and that now the punishment was not suspended and the I was now going to be processed out. I could not believe that I would get such a harsh punishment for an administrative error. In my opinion my rights were prejudiced based on the history that I had with this supervisor. It was then that I was assigned a lawyer to represent me.

I had one meeting with this lawyer prior to the administrative hearing to discharge me. This counsel was of no use to me and did not even try to explain my side of the story. If you review my military records you will see that prior to being assigned overseas to England I had no discipline problems. Specifically prior to being assigned to my last unit I had no discipline problems, I had several LOC's and LOR's in my record but they are all issued while under a particular supervisor and they are for trivial matters at best. In fact the gaps between the LOC's or LOR's that I received can be attributed to when my supervisor was either TDY or on leave. It is my opinion that I was singled out because of my appearance when not on duty and the fact that I might have different held opinions than others and did not fit the mold of what they thought I should be. In my opinion I was always diligent about my job and my duties while serving on active duty.

It was not a failure to adapt to military life because prior to joining I had been an Eagle Scout. I had known since I was Fifteen that I had wanted to join the Air Force and work on jet engines. I had no problems in boot camp, and during my school. It was only when I was assigned to this command and under this particular supervisor that I began to have problems. I am not blaming all of the problems that I had on this supervisor but I feel the environment that was created did not help my situation out.

When all the evidence is reviewed you have a member of the military who served 3 years of a 4 year contract and received a type of discharge that prohibits him from using the benefits that this member earned, because of minor infractions and an administrative error. I received inefficient counseling and feel that I was basically railroaded out of the military. I ask that the board grant my request for this discharge upgrade to honorable based on the issues that I have pointed out.



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 100TH AIR REFUELING WING (USAFE)

30 Jun 03

PD 2004-00008

MEMORANDUM FOR AMN [REDACTED]  
352 MAINTENANCE SQUADRON

FROM: 352 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct - Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service may be characterized as honorable, under honorable conditions (general), or under other than honorable conditions (UOTHC). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are:
  - a. On or about 01 March 2002, you failed to go to a mandatory appointment. For your failure to go, you received a Letter of Counseling (LOC) on 06 March 2002.
  - b. On or about 02 March 2002, you failed to maintain the minimum standards of cleanliness in your dormitory room. For this failure, you were given a LOC on 06 March 2002.
  - c. On or about 04 March 2002, you failed to report to work at the time prescribed. For your failure, you received a LOC on 06 March 2002.
  - d. On 13 March 2002, you received a LOR for failing to report to duty at the time prescribed.
  - e. On or about 16 August 2002, you failed to show up to work at the time prescribed. For your misconduct, you were given a Letter of Reprimand (LOR), dated 16 August 2002.
  - f. On or about 17 September 2002, you failed to show for a mandatory appointment. For your misconduct, you received a LOR, dated 17 September 2002.
  - g. On or about 19 October 2002, you failed to report for duty at the time prescribed. For your misconduct, you received a LOR, dated 19 October 2002.
  - h. On or about 19 October 2002, you were drunk on duty. For your act of misconduct, you received a LOR, dated 19 October 2002.

i. On 05 November 2002, you failed to report to a mandatory appointment, as evidenced by a Memorandum for Record (MFR), dated 05 November 2002.

j. On or about 10 January 2003, you failed to report to a mandatory appointment, as evidenced by a MFR, dated 28 January 2003.

k. On or about 28 April 2003, you fell asleep on five separate occasions while on duty. Your misconduct resulted in you receiving a nonjudicial punishment, Article 15, UCMJ, on 14 May 2003, resulting in a suspended reduction to the grade of Airman (E-2) and forfeiture of \$75.

l. On or about 26 May 2003, you made a false official statement. For this misconduct, your previous nonjudicial punishment, Article 15, UCMJ, of a suspended reduction to the grade of Airman (E-2) was vacated, thereby reducing you to the grade of Airman (E-2).

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. 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, at building 948, RAF Lakenheath, DSN 226-3608 on Tuesday, 08 July 2003, at 1000 hours.** 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 three (3) duty days of the date of this letter 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 **Separations Briefing. Please report to Building 436, Room 205, RAF Mildenhall, DSN 238-2389 on Tuesday, 01 July 2003, at 1030 hours.**

8. You are scheduled for a medical examination with [redacted]. **You must report, with your medical records to Building 954, RAF Lakenheath, Family Practice clinic on Monday, 14 July 2003, at 0730 hours.** You must be in uniform. If you have been prescribed glasses, you must wear your glasses to the appointment. You must also report to the immunization clinic with your shot records.

9. The Medical Examination Memorandum attached to this letter (attachment 2) must be brought with you to your appointment at separations, the family practice clinic, and the immunization

clinic. You must turn in the memorandum to the separations office after being signed by each department. You must get authorization from your First Sergeant or myself before canceling or rescheduling any of the appointments in any of the above paragraphs.

10. 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 at the unit orderly room or the Area Defense Counsel office.

  
Commander

Attachments:

1. Airman's receipt of notification memorandum
2. Medical Examination Memorandum
3. Letter of Counseling, dated 06 March 2002
4. Letter of Reprimand, dated 13 March 2002
5. Letter of Reprimand, dated 16 August 2002
6. Letter of Reprimand, dated 17 September 2002
7. Letter of Reprimand, dated 19 October 2002
8. Memorandum for Record, dated 05 November 2002
9. Memorandum for Record, dated 28 January 2003
10. AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 14 May 2003
11. AF Form 366, Record of Proceedings of Vacation of Suspended Nonjudicial Punishment, dated 20 June 2003.
12. Enlisted Performance Report, dtd 20 May 2002
13. Records Review RIP