

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						
<table border="1"> <tr> <td>COUNSEL</td> <td>NAME OF COUNSEL AND OR ORGANIZATION</td> </tr> <tr> <td>YES</td> <td>No</td> </tr> <tr> <td></td> <td>X</td> </tr> </table>		COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	YES	No		X	ADDRESS AND OR ORGANIZATION OF COUNSEL	
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION								
YES	No								
	X								

MEMBER SITTING	VOLE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[Empty Box]					X
					X
					X
					X
					X

ISSUES A94.11 A01.13	INDEX NUMBER A67.90	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 15 Apr 2004	CASE NUMBER FD-2004-00010
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APPLICANT'S ISSUE 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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

[Handwritten Signature]

INDORSEMENT		DATE 04/15/2004
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

FD-2004-00010

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because he did not believe his actions did not constitute a pattern of misconduct, and also infers procedures were not properly followed in the issuance of some of the letters of reprimand and counseling he received. Applicant was discharged for conduct prejudicial to good order and discipline. The records indicated the applicant received two Articles 15, a vacation of suspended punishment, and a Letter of Reprimand for misconduct that included two instances of underage drinking, two instances of driving on a revoked license, three instances of failure to go, disorderly conduct, and failure to obey a lawful order. Applicant also had an Enlisted Performance Report rated an overall referral "3" that documented his "continued intractable unwillingness to conform," complaints against him by co-workers and customers, and the lack of improvement after frequent counseling. The DRB opined that these documents were evidence of a pattern of misconduct that was prejudicial to good order and discipline, and that through the unit's extensive administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issues 2 through 6 are not within the purview of the DRB. Applicant may submit a request to the Air Force Board of Military Corrections to have these items reviewed.

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) (HGHI A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 17 APR 00 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.
2. **BACKGROUND:**
 - a. DOB: 26 Oct 78. Enlmt Age: 19 3/12. Disch Age: 21 5/12. Educ: HS DIPL. AFQT: N/A. A-45, E-37, G-41, M-21. PAFSC: 3M031 - Services Apprentice. DAS: 7 Aug 98.
 - b. Prior Sv: (1) AFRes 10 Feb 98 - 14 Apr 98 (2 months 5 days)(Inactive).
3. **SERVICE UNDER REVIEW:**
 - a. Enlisted as AB 15 Apr 98 for 4 yrs. Svd: 2 Yrs 0 Mo 3 Das, all AMS.
 - b. Grade Status: AB - 8 Mar 00 (Article 15, 8 Mar 00)
Amn - 15 Jan 00 (Article 15, 15 Jan 00)
A1C-(EPR Indicates): 15 Apr 98-14 Dec 99)
Amn - 15 Oct 98
 - c. Time Lost: None.
 - d. Art 15's: (1) 8 Mar 00, Malmstrom AFB, MT - Article 86. You, did, on or about 28 Jan 00, without authority, fail to go at the time prescribed to your appointed place of duty. Further, you, did, on or about 29 Jan 00, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties, on or about 31 Jan 00, were derelict in the performance of those duties in that you willfully failed to refrain from driving your vehicle while your license was revoked, as it was your duty to do. Further, you, who knew of your duties, on or about 31 Jan 00, were derelict in the performance of those duties in that you willfully failed to report a vehicle accident, as it was your duty to do. Article 134. You, were, on or about 28 Feb 00, disorderly which conduct was of a nature to bring discredit upon the armed forces. Further, you, having knowledge of a lawful order issued by A1C [REDACTED] to stop walking off base, an order which it was your duty to obey, did, on or about 28 Feb 00, fail to obey the same by wrongfully continuing to walk off base. Reduction to the grade of AB, 30 days restriction, and 30 days extra duty. (Appeal/Denied) (No

mitigation)

(2) 29 Feb 00, Vacation, Malmstrom AFB, MT - Article 92. You, who knew of your duties, on or about 31 Jan 00, were derelict in the performance of those duties in that you willfully failed to refrain from driving your vehicle, as it was your duty to do. Article 86. You, did, on or about 28 Jan 00, without authority, fail to go at the time prescribed to your appointed place of duty. Forfeiture of \$250.00 pay per month for 2 months. (No appeal) (No mitigation)

(3) 15 Jan 00, Malmstrom AFB, MT - Article 92. You, who knew of your duties, on or about 20 Oct 99, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the age of 21 yrs, as it was your duty to do. Reduction to Airman, suspended forfeiture of \$250.00 pay per month for 2 months. Thirty days extra duty. (Appeal/Withdrawn) (No mitigation)

e. Additional: LOR, 24 SEP 99 - Underage drinking and driving while under the influence of alcohol.

f. CM: None.

g. Record of SV: 15 Apr 98 - 14 Dec 99 Malmstrom AFB 3 (Initial)REF

(Discharged from Malmstrom AFB)

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (2) Mos (8) Das
TAMS: (2) Yrs (0) Mos (3) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 1 Jan 04.
(Change Discharge to Honorable)

Issue 1: Records show that patterns of misconduct where (sic) no patterns and were only accumulated (sic) to make me appear as a trouble maker. Records also show that no proper procedures were given no LOC, LORs from first incidents. I was consider (sic) a trouble maker and not an asset.

Issue 2: Document 2: Shows section 11 Primary Specialty being 3M031 (Apprentice) which is not correct. It should read 3M051 (Journeyman). Section 13: Decorations, Medals, etc. is missing my Expeditionary (sic) Ribbon awarded.

Issue 3: Document 3: Proves and shows Expeditionary was awarded but not anotated (sic) on the DD 214.

Issue 4: Document 1 shows and proves that 3M051 was accomplished.

Issue 5: Document 2 shows also that time in the military should be

corrected 1 yr and 11 month (sic) is incorrect, net active service shows 2 more month (sic) in the military active duty.

Issue 6: Document 2 section 11 time in service should be upgrade (sic) to 2 years 1 month.

ATCH

1. Air University Transcript.
2. DD Form 214.
3. Certificate of Expeditionary.

10FEB04/ia



MEMORANDUM FOR 10 MS (ATTN: AB [REDACTED])

FROM: 10 MS/CC

SUBJECT: Notification Memorandum

28 Mar 00

1. Pursuant to AFPD 36-32 and AFI 36-3208, paragraph 5.50, I am recommending your discharge from the United States Air Force for a pattern of misconduct--conduct prejudicial to good order and discipline. If my recommendation is approved, your service will be characterized as either honorable, general, or under other than honorable conditions. I am recommending a general discharge.

2. My reasons for this action are:

a. On 18 Sep ⁹⁹00, an investigation disclosed you drove your vehicle to the visitors control center and then had an AADD vehicle escort you on base. You failed to refrain from consuming alcoholic beverages while under the age of 21. For this misconduct you received a Letter of Reprimand (LOR) dated 24 Sep 99.

b. On 20 Oct 99, you were derelict in the performance of your duties when you failed to refrain from consuming alcoholic beverages while under the age of 21. For this misconduct you received an Article 15 dated 15 Jan 00.

c. On 28 Jan 00, you failed to go to your appointed place of duty. Further on 31 Jan 00, you drove your vehicle after your license had been revoked. For this misconduct you received a Vacation of Suspended Punishment dated 29 Feb 00.

d. On both 28 Jan 00 and 29 Jan 00, you failed to go to your appointed place of duty. On 31 Jan 00, you drove your vehicle after your license had been revoked and you failed to report a vehicle accident. Further, on 28 Feb 00, you failed to obey a lawful order and your disorderly conduct brought discredit upon the United States Air Force. For this misconduct you received an Article 15 dated 8 Mar 00.

3. Copies of the above documents will be forwarded to the separation authority in support of this recommendation. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. 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, 7015 Goddard Drive, Bldg 145, Room 144 on 29 Mar 00 at 1300. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. You have 3 duty days from the date of this letter (COB 31 Mar 00), to provide me with any statements you want the separation authority to consider. You may request and receive an extension for good cause shown. I will send all submitted 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 receive a medical examination. You are scheduled for a medical examination at the 341st Medical Group Physical Examination Section on 29 Mar 00 at 1300 hours. You **MUST** be in uniform for this appointment. If you wear glasses, you must also bring them to this appointment.

8. Any personal information you provide in rebuttal is subject to the Privacy Act Statement as explained in AFI 36-3208, Atch 6. A copy of AFI 36-3208 is available for your use at your orderly room.



Lt Col, USAF

Commander

Attachments:

1. Supporting documents:
 - a. LOR dated 24 Sep 99
 - b. AF Form 3070 dated 15 Jan 00
 - c. AF Form 366 dated 29 Feb 00
 - d. AF Form 3070 dated 8 Mar 00
2. Airman's Receipt of Notification Memorandum