

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
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

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

ISSUES A93.21	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:20px;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>	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
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HEARING DATE 05 May 2004	CASE NUMBER FD-2004-00013	
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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]

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

FD-2004-00013

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the 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: Upgrade of discharge, change of reason and authority for discharge, and change of reenlistment code are denied.

ISSUE:

The Board finds that neither the evidence of record nor that provided by the applicant provides a sufficient basis in clemency for a change of discharge.

Issue. Applicant contends discharge was inequitable because it was too harsh; he noted he had been seeking treatment for insomnia. The records indicated the applicant was discharged for minor disciplinary infractions after receiving two Articles 15, three Letters of Reprimand, three Records of Individual Counseling for misconduct, and one traffic ticket. His infractions consisted of nine instances of failure to go or being late to work, failure to complete his career development course on time, and failure to obey an order to get a haircut. While the record did show that member had sought medical assistance for sleep difficulties, it indicated he had been instructed on how to improve his sleep hygiene and had been prescribed medications to aid his sleep patterns. He was never given a diagnosis that warranted a medical evaluation board or rendered him unfit for duty. He was also at one time diagnosed with an adjustment disorder, and subsequently occupational problems, but these were not unfitting either. The DRB opined that member had it within his own ability to correct his negative behavior and was unwilling to do so. Through the unit's administrative actions, the applicant had ample opportunities to show improvement. The Board concluded his misconduct was a significant departure from conduct expected of all military members, and there was no evidence member was immature or did not know right from wrong. Member was of the same age as most first term airmen who successfully complete their enlistments without misconduct. The board found no basis for and inequity or impropriety that warranted an upgrade, and found the characterization of the discharge received by the applicant was 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

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 10 Oct 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 26 Nov 80. Enlmt Age: 18 6/12. Disch Age: 21 10/12. Educ: HS DIPL. AFQT: N/A. A-26, E-47, G-39, M-80. PAFSC: 3E031 - Electrical Systems Apprentice. DAS: 27 Feb 01.

b. Prior Sv: (1) AFRes 28 May 99 - 7 Dec 99 (6 months 10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 8 Dec 99 for 4 yrs. Svd: 2 Yrs 10 Mo 3 Das, all AMS.

b. Grade Status: AB - 1 Oct 02 (Article 15, 1 Oct 02)
Amn - 20 Aug 02 (Article 15, 20 Aug 02)
A1C - 8 Apr 01
Amn - 8 Jun 00

c. Time Lost: None.

d. Art 15's: (1) 1 Oct 02, Davis-Monthan AFB, AZ - Article 86. You did, between on or about 7 Mar 02 and on or about 30 Jul 02, without authority, fail to go at the time prescribed to your dental appointments. You did, on or about 30 Aug 02, without authority, fail to go at the time prescribed to your extra duty. You did, between on or about 14 Sep 02 and on or about 15 Sep 02, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to AB. (No appeal) (No mitigation)

(2) 20 Aug 02, Davis-Monthan AFB, AZ - Article 86. You did, on or about 24 Jul 02, 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 26 Jul 02, were derelict in the performance of those duties in that you wrongfully failed to inform your supervisor that you were put on quarters, as it was your duty to do. Reduction to Airman, and 30 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: RIC, 08 JUL 02 - Failure to complete CDCs on time.
LOR, 03 JUL 02 - Failure to go, and failure to obey an

order to get a haircut.
 Traffic Ticket, 1 JUL 02 - Illegal parking.
 RIC, 06 JUN 02 - Late for work.
 LOR, 05 JUL 01 - Failure to go.
 LOR, 28 JUN 01 - Failure to go.
 RIC, 14 JUN 01 - Late for work.

f. CM: None.

g. Record of SV: 3 Apr 01 - 9 Sep 01 Davis-Monthan AFB 3 (Initial) REF
 10 Sep 01 - 9 Sep 02 Davis-Monthan AFB 3 (Annual) REF
 (Discharged from Davis-Monthan AFB)

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (3) Yrs (4) Mos (13) Das
 TAMS: (2) Yrs (10) Mos (3) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Jan 04.
 (Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: My discharge was base (sic) on "failure to show."

Examples: Late for work.
 Late for P.T. Formations.

This was on several occasions. During this time frame, I was seeking medical help for my sleeping disorder. I was diagnosed with "insomnia." My medical records will indicate numerous doctor appointments and several different prescriptions that were not helping my insomnia. I was stopped from going to an off-base specialist once the discharge process started and didn't finish treatment until Nov 2003.

ATCH

1. DD Form 214.
2. Medical Documents.

11FEB04/ia



DEPARTMENT OF THE AIR FORCE
355TH CIVIL ENGINEER SQUADRON (ACC)
DAVIS-MONTHAN AIR FORCE BASE, ARIZONA

FD 2004-00013

4 OCT 02

MEMORANDUM FOR AB [REDACTED] 355 CES

FROM: 355 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, specifically 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 or under honorable conditions (general). I am recommending your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 14 Jun 01, you failed to go, at the time prescribed, to your appointed place of duty. As a result, you received a Record of Individual Counseling (RIC) (Tab A).
 - b. On about 28 Jun 01, you failed to go at the time prescribed, to your appointed place of duty, specifically, mandatory physical training formation. As a result, you received a Letter of Reprimand (LOR) (Tab B).
 - c. On or about 5 Jul 01, you failed to go at the time prescribed, to your appointed place of duty, specifically, mandatory physical training formation. As a result, you received a LOR (Tab C).
 - d. On or about 5 Jun 02, you failed to go at the time prescribed, to your appointed place of duty, specifically, failing to report to work on time. As a result, you received a RIC (Tab D).
 - e. On or about 1 Jul 02, you received a traffic citation for being parked in a prohibited area (Tab E).
 - f. On or about 3 Jul 02, you failed to go at the time prescribed, to your appointed place of duty, specifically, a mandatory 0645 formation at your shop in preparation of the 355 CES Change of Command ceremony. You also refused to get a haircut. As a result, you received an LOR (Tab F)
 - g. On or about 8 Jul 02, you failed to complete your Career Development Course CDC's on time. As a result you received a RIC (Tab G).

h. On or about 24 Jul 02, without authority, you failed to go, at the time prescribed, to your appointed place of duty, specifically Building 5309. On or about 26 Jul 02, you were derelict in the performance of your duties in that you failed to inform your supervisor that you were put on quarters, as it was your duty to do so. As a result, you received punishment under Article 15 of the UCMJ and a UIF was established (Tab H).

i. Between on or about 7 Mar 02 and on or about 30 Jul 02, without authority, you failed to go, at the time prescribed, to your appointed place of duty, specifically Building 400. On or about 30 Aug 02, without authority, you failed to go to your appointed place of duty, specifically Building 57. Between on or about 14 Sep 02 and on or about 15 Sep 02, without authority, you failed to go at the time prescribed to your appointed place of duty, specifically Building 5309. As a result, you received punishment under Article 15 of the UCMJ and an entry was made in your existing Unfavorable Information File (UIF) (Tab I).

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 will probably be denied enlistment in any component of the armed forces 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, Capt [REDACTED] AFLSA/ADC, 228-5664, has been obtained to assist you. An appointment has been scheduled for you to consult her on 7 Oct 02 at 0930 hours in Bldg 3510. 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 9 Oct 02 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 Exams Office of the Aeromedical Facility, Bldg 420, Rm 283, at 1000, on 9 Oct 02, for the examination.

8. You have been scheduled for an initial outprocessing briefing. You must report to the Military Personnel Flight (MPF), Separations Element, Bldg 3200, Rm 120, at 1400 on 7 Oct 02 for the outprocessing briefing. If you have questions, please call 228-5326.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. You may contact the Area Defense Counsel to obtain a copy of AFI 36-3208.

FD2004-00013

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

FOR THE COMMANDER



2LT, USAF
Squadron Section Commander, 355 CES

Attachments:

1. Supporting Documents
 - a. RIC, 14 Jun 01 (2 pages)
 - b. LOR, 28 Jun 01 (2 pages),
 - c. LOR, 5 Jul 01 (2 pages)
 - d. RIC, 5 Jun 02 (2 pages)
 - e. DD Form 1408, Armed Forces Traffic Ticket, 1 Jul 02 (2 pages)
 - f. LOR, 3 Jul 02 (2 pages)
 - g. RIC, 8 Jul 02, (2 pages)
 - h. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 29 Aug 02 (3 pages)
w/Evidence (6 pages), Response (2 page), Appeal (1 page), Response to Appeal (3
pages), AF Form 1137, UIF Summary
 - i. AF Form 3070, Record of Nonjudicial Punishment Proceedings, 3 Oct 02 (3 pages),
w/Evidence (3 pages), AF Form 1137, UIF Summary