

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AMN

TYPE GEN

PERSONAL APPEARANCE

X

RECORD REVIEW

COUNSEL	
YES	No
	X

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

MEMBER SITTING

YOTE OF THE BOARD

HON	GEN	UOTHC	OTHER	DENY
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X

X

X

X

X

ISSUES **A94.53**

INDEX NUMBER **A67.10**

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

16 Apr 2004

CASE NUMBER

FD-2004-00015

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL NATIONAL ARE DENSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL NATIONALE

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.

INDORSEMENT

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-2004-00015

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:

Issue 1. Applicant was discharged for minor disciplinary infractions. The records indicated the applicant received an Article 15, four Letters of Reprimand, eight Records of Individual Counseling, one Letter of Admonishment for misconduct. His infractions included nine incidents of failure to go, six incidents of sleeping on duty, two incidents of dereliction of duty, and financial irresponsibility. The record also disclosed member had difficulty with his Career Development Course, and dress and appearance. Furthermore, member had an adjustment disorder, was seen several times for intermittent depression, and was admitted to a civilian hospital for same but subsequently refused follow up therapeutic services. At the time of the discharge, applicant waived his right to consult counsel and submit statements in his own behalf. The DRB opined that through the unit's many administrative actions, the applicant had ample opportunities to change his negative behavior and was either unable or unwilling to do so. The Board concluded applicant knew right from wrong and was responsible for his actions, and therefore was held accountable for them. Additionally, existence of a character and behavior disorder does not bar separation for any other authorized reason, such as misconduct, if that reason is more appropriate; a discharge for a mental disorder is not appropriate if the airman's record supports discharge for misconduct, which in this case, it does. The Board concluded the extensive misconduct was a significant departure from conduct expected of all military members and the characterization of the discharge received by the applicant was appropriate.

Issue 2. The applicant notes the period of time that has passed since his discharge, and infers it supports an upgrade. The DRB noted that while a discharge may be upgraded after 6 months, an upgrade is not automatic. A discharge is upgraded only if the applicant and DRB can establish an inequity or impropriety took place at the time of discharge. In this case, none was found, so the Board denied the appeal.

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]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 7 May 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 6 Jan 82. Enlmt Age: 18 6/12. Disch Age: 20 4/12. Educ: HS DIPL. AFQT: N/A. A-57, E-52, G-53, M-41. PAFSC: 3M031 - Services Apprentice. DAS: 27 Dec 00.

b. Prior Sv: (1) AFRes 14 Jul 00 - 29 Aug 00 (1 month 16 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 30 Aug 00 for 4 yrs. Svd: 1 Yrs 8 Mo 8 Das, all AMS.

b. Grade Status: Amn - 5 Apr 02 (Article 15, 5 Apr 02)
A1C - 28 Dec 01
Amn - 28 Feb 01

c. Time Lost: None.

d. Art 15's: (1) 5 Apr 02, Tyndall AFB, FL - Article 92. You, who knew or should have known of your duties, on or about 21 Mar 02, were derelict in the performance of your duties in that you willfully failed to refrain from sleeping while on duty while leaving the storeroom unsecure, as it was your duty to do. Reduction to Airman, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 02 APR 02 - Dereliction of duty.
LOA, 29 MAR 02 - Financial irresponsibility
LOR, 13 MAR 02 - Failure to go.
RIC, 07 MAR 02 - Sleeping on duty.
RIC, 01 FEB 02 - Late for duty.
RIC, 06 DEC 01 - Sleeping on duty.
LOR, 27 NOV 01 - Failure to go.
RIC, 30 SEP 01 - Late for duty.
RIC, 03 APR 01 - Sleeping on duty.
RIC, 03 APR 01 - Dereliction of duty.
LOR, 26 JAN 01 - Failure to go.
RIC, 20 JAN 01 - Late for duty.
RIC, 16 OCT 01 - Late for duty.

f. CM: None.

g. Record of SV: None.

(Discharged from Tyndall AFB)

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

i. Stmt of Sv: TMS: (1) Yrs (9) Mos (24) Das
TAMS: (1) Yrs (8) Mos (8) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 12 Jan 04.
(Change Discharge to Honorable)

Issue 1: The discharge I recieved (sic) was General under Honorable Conditions. The date of my discharge was 20020507 (May 7, 2002) and its now Jan 2004. I am requesting that my discharge be upgraded to Honorable via what ever military records you have to.

ATCH
None.

6FEB04/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD 2004-00015

MEMORANDUM FOR A1C [REDACTED]

23 APR 2002

FROM: 325 SVS/CC

SUBJECT: Notification Memorandum—Administrative Discharge

1. I am recommending your discharge from the United States Air Force for Misconduct: specifically, Minor Disciplinary Infractions. The authority for this action is Air Force Policy Directive 36-32 and Air Force Instruction 36-3208, Chapter 5, Section H, para. 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general.
2. My reasons for this action are:
 - a. You, who knew or should have known of your duties, at or near Tyndall Air Force Base, Florida, on or about 21 March 2002, were derelict in the performance of your duties in that you willfully failed to refrain from sleeping while on duty while, and did not secure the storeroom, as it was your duty to do, as evidenced by an Article 15 finalized 9 April 2002. (Atch 1a)
 - b. You, who knew of your duties, at or near Tyndall Air Force Base, Florida, on or about 31 March 2002, were derelict in the performance of your duties in that you willfully failed to return to your place of duty after notifying your replacement, as it was your duty to do, as evidenced by a LOR dated 2 Apr 02. (Atch 1b)
 - c. You, being indebted to Military Star Program in the sum of \$114.49 for purchases, which amount became due and payable on or about 28 March 2002, did at or near Tyndall Air Force Base, Florida, on or about 28 March 2002, dishonorably fail to pay said debt, as evidenced by a LOA dated 29 March 2002. (Atch 1c)
 - d. You did, at or near Tyndall Air Force Base, Florida, on or about 13 March 2002, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1454, Officers Club, as evidenced by a LOR dated 13 March 2002. (Atch 1d)
 - e. You, who knew or should have known of your duties, at or near Tyndall Air Force Base, Florida, on or about 7 March 2002, were derelict in the performance of your duties in that you willfully failed to refrain from sleeping while on duty, as it was your duty to do, as evidenced by a Record of Individual Counseling dated 7 March 2002. (Atch 1e)

FOR OFFICIAL USE ONLY

f. You did, at or near Tyndall Air Force Base, Florida, on or about 31 January 2002, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1690, Berg-Liles Dining Facility, as evidenced by a Record of Individual Counseling dated 1 February 2002. (Atch 1f)

g. You, who knew or should have known of your duties at or near Tyndall Air Force Base, Florida, on or about 29 November 2001, were derelict in the performance of your duties in that you willfully failed to refrain from sleeping while on duty, as it was your duty to do, as evidenced by a Record of Individual Counseling dated 6 December 2001. (Atch 1g)

h. As evidenced by a LOR dated 27 November 2001:

You did, at or near Tyndall Air Force Base, Florida, on or about 15 October 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1265, Combat Arms Range.

You did, at or near Tyndall Air Force Base, Florida, on or about 16 October 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1690, Berg-Liles Dining Facility. (Atch 1h)

i. You did, at or near Tyndall Air Force Base, Florida, on or about 30 September 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1690, Berg-Liles Dining Facility, as evidenced by a Record of Individual Counseling dated 30 September 2001. (Atch 1i)

j. You, who knew or should have known of your duties, at or near Tyndall Air Force Base, Florida, from on or about 22 March 2001 to on or about 23 March 2001, were derelict in the performance of your duties in that you willfully failed to annotate the food items with the proper date and time of storage, as it was your duty to do, as evidenced by a Record of Individual Counseling dated 3 April 2001. (Atch 1j)

k. You, who knew or should have known of your duties, at or near Tyndall Air Force Base, Florida, on or about 15 March 2001, 22 March 2001, 23 March 2001, were derelict in the performance of your duties in that you willfully failed to refrain from sleeping while on duty, as it was your duty to do, as evidenced by a Record of Individual Counseling dated 3 April 2001. (Atch 1k)

l. You did, at or near Tyndall Air Force Base, Florida, on or about 22 January 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 842, First Term Airman Center, as evidenced by a LOR dated 26 January 2001. (Atch 1l)

m. You did, at or near Tyndall Air Force Base, Florida, on or about 20 January 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit:

building 1690, Berg-Liles Dining Facility, as evidenced by a Record of Individual Counseling dated 20 January 2001. (Atch 1m)

n. You did, at or near Tyndall Air Force Base, Florida, on or about 14 January 2001, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: building 1690, Berg-Liles Dining Facility, as evidenced by a Record of Individual Counseling dated 16 January 2001. (Atch 1n)

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 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 will probably be denied enlistment in any component of the armed forces.
4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. An appointment has been made for you to consult Capt [REDACTED] Area Defense Counsel, Bldg. 1005 (3-2911) at 0930 on 24Apr02. You may consult civilian legal counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me within three (3) workdays unless you request and receive an extension, in writing, for showing good cause. I will send them to the separation authority.
6. If you fail to consult counsel or 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 records check as part of this discharge process. You must report to the NCOIC, Physical Examinations, Building 1465 (3-7673), Monday, Tuesday, Thursday or Friday between 1330 and 1500 to complete this medical records check.
8. You have been scheduled for a separations briefing. You must report to 325 MSS/DPMAR (Separations) section at 0730 on 24Apr02.
9. Any personal information you furnish in rebuttal is covered by the Privacy Act. A copy of AFI 36-3208 is available for your use in the unit personnel office.
10. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]
Lt Col, USAF
Commander, 325 SVS

Attachments:

- 1a. Article 15, dated 9 Apr 02, MFR, dated 21 Mar 02
- 1b. LOR, dated 2 Apr 02
- 1c. LOA, dated 29 Mar 02
- 1d. LOR, dated 13 Mar 02
- 1e. Record of Individual Counseling, dated 7 Mar 02
- 1f. Record of Individual Counseling, dated 1 Feb 02
- 1g. Record of Individual Counseling, dated 6 Dec 01
- 1h. LOR, dated 27 Nov 01
- 1i. Record of Individual Counseling, dated 30 Sep 01
- 1j. Record of Individual Counseling, dated 3 Apr 01
- 1k. Record of Individual Counseling, dated 3 Apr 01
- 1l. LOR, dated 26 Jan 01
- 1m. Record of Individual Counseling, dated 20 Jan 01
- 1n. Record of Individual Counseling, dated 16 Jan 01
- 1o. Other Derogatory Information
2. Airman's Receipt of Notification Memorandum