

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AMN	AFSN/SSAN ████████████████
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

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

ISSUES A95.00	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 08 Jun 2004	CASE NUMBER FD-2004-00035	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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

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INDORSEMENT		DATE: 6/8/2004
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-2004-00035

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. 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.

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 no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an Article 15, four Letters of Reprimand, one Record of Individual Counseling, two Memorandums for Record, and a traffic ticket. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative/repetitive behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members.

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 Shaw AFB, SC on 9 Oct 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 23 Feb 82. Enlmt Age: 19 5/12. Disch Age: 20 7/12. Educ: HS DIPL. AFQT: N/A. A-48, E-49, G-55, M-49. PAFSC: 2A634 - Aircraft Fuels. DAS: 1 Apr 02.

b. Prior Sv: (1) AFRes 16 Aug 01 - 12 Nov 01 (2 months 28 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 Nov 01 for 6 yrs. Svd: 0 Yrs 10 Mo 27 Das, all AMS.

b. Grade Status: Amn - 19 Aug 02 (Article 15, 19 Aug 02)
A1C - 17 May 02

c. Time Lost: None.

d. Art 15's: (1) 19 Aug 02, Shaw AFB, SC - Article 92. You, having knowledge of a lawful order issued by SMSgt ██████████ to not drive until you had a valid driver's license, an order which it was your duty to obey, did, on or about 6 Aug 02, fail to obey the same by wrongfully driving without a valid driver's license. You, having knowledge of a lawful order issued by MSGT ██████████ to not drive until you had a valid driver's license, an order which it was your duty to obey, did, on or about 6 Aug 02, fail to obey the same by wrongfully driving without a valid license. Reduction to Airman. (No appeal) (No mitigation)

e. Additional: LOR, 04 SEP 02 - Late for work.
LOR, 23 AUG 02 - Failure to obey a lawful order not to drive without a valid driver's license.
LOR, 06 AUG 02 - Failure to obey a lawful order.
Traffic Ticket, 6 AUG 02 - Driving without a valid driver's license and speeding.
LOR, 06 AUG 02 - Civil arrest for violating a noise ordinance, interfering with a police officer and driving without a valid driver's license.
RIC, 25 JUL 02 - Late for work on numerous occasions.

MEMO, 24 JUL 02 - Late for work.
MEMO, 23 JUL 02 - Dereliction of duty.

f. CM: None

g. Record of SV: None.

h. Awards & Decs: BTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (1) Mos (24) Das
TAMS: (0) Yrs (10) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 25 Jan 04
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH
None.

20APR04/ia



DEPARTMENT OF THE AIR FORCE
20th FIGHTER WING (ACC)
SHAW AIR FORCE BASE, SOUTH CAROLINA

FD2004-00035

17 Sep 02

MEMORANDUM FOR AMN [REDACTED]

FROM: 20 CRS/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, Military Retirements and Separations, and AFI 36-3208, Administrative Separation of Airmen, Chapter 5, paragraph 5.49. If my recommendation is approved, your discharge will be characterized as honorable or general. I recommend your discharge be characterized as general.

2. My reasons for this action are:

a. On or about 4 Sep 02, you failed to report to work on time. For this act of misconduct, you received a Letter of Reprimand (LOR), dated 4 Sep 02.

b. On or about 23 Aug 02, after receiving a direct order not to operate you vehicle, you operated a vehicle without a license. For this act of misconduct, you received an LOR, dated 23 Aug 02.

c. On or about 6 Aug 02, you failed to obey a lawful order, given by both SMSgt [REDACTED] and MSgt [REDACTED], not to drive until you had a valid drivers license. For this act of misconduct, you received Article 15 nonjudicial punishment, dated 19 Aug 02. Punishment consisted of a reduction to the grade of Airman.

d. On or about 5 Aug 02, you failed to obey a lawful order to be at Sumter County Court at a certain time, given by MSgt [REDACTED]. For this act of misconduct, you received an LOR, dated 6 Aug 02.

e. On or about 4 Aug 02, you were arrested in Sumter, South Carolina for violating a noise ordinance, interfering with a police officer, and driving without a valid license. For these acts of misconduct, you received an LOR, dated 6 Aug 02.

The documents listed above are located under Tab 4.

3. In addition to the above reasons for discharge, your file also reflects a Letter of Counseling (LOC), dated 25 Jul 02, which documents you reporting late for duty on two different days. Your file also reflects two Memoranda for Record (MFRs), dated 24 Jul 02 and 23 Jul 02, dealing with verbal counseling for being late to duty and studying rap lyrics when you were supposed to study your Career Development Course (CDC) material. Additionally, your file reflects two Armed Forces Traffic Tickets, dated 6 Aug 02 and 23 Aug 02, for driving without a valid drivers license. These documents are located under Tab 4a.

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4. 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 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 not be allowed to enlist in any other branch of the armed forces.

5. 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 Capt [REDACTED], Area Defense Counsel, 895-9530, on 17 Sep 02, at 1430 hours. You may consult civilian counsel at your own expense.

6. 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 days after receipt of the notification memorandum, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You are scheduled for your final out-processing medical examination on Sep 02 at hours. You will report to Primary Care, located in the Shaw AFB Hospital, at the time prescribed. This appointment is mandatory. If you must reschedule, contact your unit First Shirt to have them make the appointment for you. This examination must be carried out within 48 hours of the original appointment if the date must be rescheduled.

9. 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.

10. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies that you received, if any, if you separate before completing the period of active duty you agreed to serve. This recoupment applies whether you voluntarily separate or are involuntarily separated. Recoupment will apply regardless of the basis for involuntary discharge, unless the reason is homosexual conduct. The recoupment in all cases is an amount that bears the same ratio to the total cost provided to you as the unserved portion of active duty bears to the total period of active duty you agreed to serve. If you dispute that you are indebted for educational assistance, a board or other authority will make findings and recommendations concerning the validity of the indebtedness.

11. Execute the attached acknowledgment, and return it to me immediately.

[REDACTED]
[REDACTED] Maj, USAF
Commander

Attachments on next page

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10 Attachments:

1. LOR, dated 4 Sep 02 (Tab 4)
2. LOR, dated 23 Aug 02 (Tab 4)
3. AF Form 3070, dated 19 Aug 02 (Tab 4)
4. LOR w/atch, dated 6 Aug 02 (Tab 4)
5. LOR w/atch, dated 6 Aug 02 (Tab 4)
6. DD Form 1408, dated 23 Aug 02 (Tab 4a)
7. LOC, dated 25 Jul 02 (Tab 4a)
8. MFR, dated 24 Jul 02 (Tab 4a)
9. MFR, dated 23 Jul 02 (Tab 4a)
10. DD Form 1408, dated 6 ~~Aug~~^{May} 02 (Tab 4a)