

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	VOLE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

ISSUES A94.11 A92.35	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-2004-00039	
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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.

INDORSEMENT	DATE: 4/16/2004
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-2004-00039

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 was discharged for minor disciplinary actions; he contends discharge was inequitable because it was too harsh. The records indicated the applicant received three Articles 15, one Letter of Reprimand, and had an Unfavorable Information File for misconduct. His infractions included being late to work, making a false official statement, being drunk and disorderly, and assaulting another airman in the face. Additionally, records reveal that applicant was enrolled in the alcohol rehabilitation program during the period November 2001 to May 2002, was diagnosed alcohol dependent, but subsequently refused to complete the medical treatment offered. Furthermore, applicant was allowed to enter the service on a moral waiver after three alcohol-related civilian convictions, and admitting two instances of pre-service illegal drug use. At the time of his discharge, applicant consulted counsel but waived his right to submit matters in his own behalf. The DRB opined that through the unit's administrative actions, the applicant had ample opportunities to change his negative behavior but was unable or unwilling to do so. 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.

Issue 2. Applicant states that he was the subject of undue scrutiny once he had made a mistake, and he believes would have been discharged regardless of his otherwise satisfactory service. He also infers he should be given a second chance to succeed since he has left the military. The Board found applicant's willful misconduct to be very serious. Thus the Board concluded the discharge was appropriate for the reasons which were its basis.

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 Dover AFB, DE on 24 Oct 02 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 18 Nov 80. Enlmt Age: 20 1/12. Disch Age: 21 11/12. Educ: HS DIPL. AFQT: N/A. A-81, E-77, G-86, M-76. PAFSC: 2A733 - Aircraft Structural Maintenance Apprentice. DAS: 11 Aug 01.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Jan 01 for 6 yrs. Svd: 1 Yrs 9 Mo 9 Das, all AMS.

b. Grade Status: AB - 13 Sep 02 (Article 15, 13 Sep 02)
A1C - Unknown
Amn - 26 Nov 01 (Article 15, 26 Nov 01)
A1C - 16 Mar 01

c. Time Lost: None.

d. Art 15's: (1) 13 Sep 02, Ramstein AB, Germany - Article 128. You, did, on or about 24 Aug 02, unlawfully strike A1C [REDACTED] in the face with your fist. Reduction to AB, 30 days extra duty and a reprimand. (No appeal) (No mitigation)

(2) 26 Dec 01, Ramstein AB, Germany - Article 134. You, were, on or about 4 Nov 01, drunk and disorderly. Suspended reduction to AB, suspended forfeiture of \$250.00 pay, 45 days extra duty. (No appeal) (No mitigation)

(3) 26 Nov 01, Ramstein AB, Germany - Article 107. You did, on or about 17 Oct 01, with intent to deceive, sign an official statement, to wit: Air Force Form 1168, dated 17 Oct 01, which statement was totally false, and was then known by you to be so false. Reduction to Airman, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 7 SEP 01 - Late for work.

- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR, NDSM, AFOUA W/2 DEVS.
- i. Stmt of Sv: TMS: (1) Yrs (9) Mos (9) Das
TAMS: (1) Yrs (9) Mos (9) Das

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

Issue 1: My discharge was inequitable because it was based on 2 isolated instances over my full time of service. I was looked at for faults off duty instead of the good I did on duty.

Issue 2: I believe that once I screwed up I was marked. I don't think it would have mattered what happened after that I would have still been kicked out. I have successfully completed AA/Alcohol Treatment classes. I'm ready to turn my life around and better myself. Further, I would be able to do so much easily with an upgrade.

ATCH
None.

8MAR04/ia



DEPARTMENT OF THE AIR FORCE
86TH AIRLIFT WING (USAF)

FD 2004-00039

MEMORANDUM FOR AB [REDACTED] 86 MXS

2 OCT 02

FROM: 86 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for 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 will be characterized as either honorable or general. I am recommending that your service be characterized as general (under honorable conditions).
2. My reasons for this action are:
 - a. On or about 24 August 2002 you assaulted another military member. For this incident you received nonjudicial punishment dated 13 September 2002. Additionally, this document was placed in your existing Unfavorable Information File (UIF) (Atch 1a).
 - b. On or about 4 November 2001, you were drunk and disorderly by breaking a dormitory window. For this incident you received nonjudicial punishment dated 26 December 2001. Additionally, this document was placed in your existing UIF (Atch 1b).
 - d. On or about 17 October 2001, you signed a false official statement stating you were assaulted, lost your footing, and fell over the edge of a dormitory balcony. You actually fell off of a rain gutter you were attempting to climb while drunk. For this incident you received nonjudicial punishment dated 26 November 2001 (Atch 1c). This action created a UIF (Atch 1d).
 - e. On or about 7 September 2001 you failed to report to duty on time, arriving 45 minutes late for work. For this incident you received a Letter of Reprimand (LOR) dated 7 September 2001 (Atch 1e)
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.



50 Years of Friendship and Freedom

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 _____, Area Defense Counsel, Ramstein AB, GE, Building 2111, DSN 480-2182/2492 on 30<T 02/1500.** 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 7<T 02 at 1730 hours 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 in uniform with your medical records and an escort to the Ramstein AB Clinic, Physical Exams, Building 2121 on 30<T 02, at 0800 for the evaluation.** If you wear glasses, you must bring them with you. If you wear contacts, you must be able to remove them.

8. 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.

9. Execute the acknowledgement and return it to me immediately


Lt Col, USAF

Attachments:

- 1. Supporting Documents:
 - a. Art 15, dated 13 Sep 02
 - b. Art 15, dated 26 Dec 01
 - c. Art 15, dated 26 Nov 01
 - d. AF Form 1137, undated
 - e. LOR, dated 7 Sep 01
- 2. Airman's Receipt of Notification Memorandum