

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	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	██████████	██████████ ██████████
<input checked="" type="checkbox"/>	<input type="checkbox"/>		

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

ISSUES	A92.35 A92.21 A93.01 A92.03 A93.07	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 17 Nov 2004	CASE NUMBER FD-2004-00041
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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 via video teleconference between Andrews AFB, MD, and Randolph AFB, TX.

Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.

u.p.

INDORSEMENT	DATE: 11/29/2004
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-2004-00041

GENERAL: The applicant appeals for upgrade of discharge to Honorable and to change his reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Randolph AFB, Texas, via video teleconference with Andrews AFB, MD, on November 17, 2004.

The attached brief contains the available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge, and change of reenlistment code are 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 1, 3 - 5. Applicant was discharged for conduct prejudicial to good order and discipline. He had seven Letters of Reprimand, a Letter of Counseling, a Memo for Record, two Articles 15, and a vacation of suspended punishment documenting misconduct consisting of multiple incidents of dereliction of duty, failure to go, sleeping on post, and misuse of a government computer. At the time of the discharge, applicant consulted counsel and submitted a statement apologizing for his misconduct and requesting to be retained. Applicant now infers the discharge was too harsh in view of his marital problems at the time and the resultant stress, and his otherwise satisfactory service. He also felt his infractions were isolated and minor in nature, and his ability to serve was impaired by his youth and immaturity. Neither the record review nor applicant's testimony provided sufficient merit to applicant's contentions. Applicant conceded that at that time he and his military spouse had been involved in a couple of domestic incidents, he was unable to cope with military life, and he had lost focus on his duties due to the stress. Applicant stated he has grown from his mistakes and is not the same person he was at the time of the discharge. The Board noted applicant was the same age as other airmen who complete their enlistments without any misconduct, and that he knew right from wrong, and although given many opportunities, he failed to correct his negative behavior. The Board found insufficient mitigation for his misconduct. Neither the record nor applicant's testimony offered a basis to substantiate an upgrade or to change his reenlistment code.

Issue 2 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well, has continued his education, and has a good job. However, this is not a matter of inequity or impropriety. The Board concluded applicant's misconduct appropriately characterized his term of service.

Issue 6. The applicant cited his desire to reenlist as justification for upgrade. While the Board was sympathetic to the impact the reenlistment code was having on the applicant, this also is not a matter of inequity or impropriety which would warrant an upgrade.

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/change of reason for discharge, or to change the reenlistment code, 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 Lackland AFB, TX on 3 Jan 02 UP AFI 36-3208, 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 24 Dec 78. Enlmt Age: 19 8/12. Disch Age: 23 0/12. Educ: HS DIPL. AFQT: N/A. A-51, E-36, G-41, M-36. PAFSC: 3P051 - Security Forces Journeyman. DAS: 30 Jun 99.

b. Prior Sv: (1) AFRes 31 Aug 98 - 8 Dec 98 (3 months 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 9 Dec 98 for 6 yrs. Svd: 3 Yrs 0 Mo 26 Das, all AMS.

b. Grade Status: AMN - 26 Sep 01 (Article 15, 26 Sep 01)
A1C - 23 Sep 00
AMN - 23 Nov 99 (Vacation of Article 15, 5 Jan 00)
A1C - 22 Jan 99

c. Time Lost: None.

d. Art 15's: (1) 26 Sep 01, Rhein-Main AB, Ger - Article 82. You did, on or about 27 Aug 01, violate a lawful general regulation, to wit: paragraph 6.1.3, AFI 33-129, dated 4 Apr 01, by wrongfully processing and displaying obscene language and material consisting of pornographic images and sexually explicit video via a government computer. Reduction to Airman, and 14 days extra duty. (No appeal) (No mitigation)

(2) 5 Jan 00, Vacation, Rhein-Main AB, Ger - Article 113. You, on or about 18 Dec 99, being posted as a sentinel at Hanger #38 were found sleeping upon your post. Reduction to Airman. (No appeal) (No mitigation)

(3) 23 Nov 99, Rhein-Main AB, Ger - Article 113. You, on or about 7 Nov 99, being on post as a sentinel at building 609 were found sleeping upon your post. Suspended reduction to Airman. Three days extra duty. (No appeal) (No mitigation)

(4) 5 May 99, Camp Bullis, TX - Article 92. You, who knew

of your duties at or near Camp Bullis, Texas, on or about 21 Mar 99, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the legal drinking age of 21, as it was your duty to do. Forfeiture of \$200.00 pay per month for 1 month. (No appeal) (No mitigation)

- e. Additional: LOR, 03 APR 01 - Late for duty.
 LOR, 26 FEB 01 - Sleeping on post.
 LOR, 14 FEB 01 - Possessing a vehicle with expired registration and insurance, placing plates from current vehicle onto expired one.
 Driving current vehicle with expired insurance.
 LOC, 14 FEB 01 - Missed appointment.
 LOR, 05 NOV 99 - Dereliction of duty.
 LOR, 05 NOV 99 - Dereliction of duty.
 LOR, 12 OCT 99 - Missed two mandatory appointments.
 MFR, 23 SEP 99 - Missed appointment.
 LOR, 25 SEP 99 - Dereliction of duty.
- f. CM: None.
- g. Record of SV: 9 Dec 98 - 8 Aug 00 Rhein-Main AB 3 (Initial)
 9 Aug 00 - 6 Oct 01 Rhein-Main AB 2 (Annual)REF
- h. Awards & Decs: AFTR, AFOUA, AFOEA.
- i. Stmt of Sv: TMS: (3) Yrs (4) Mos (4) Das
 TAMS: (3) Yrs (0) Mos (26) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Jan 04.
 (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. DD Form 214.
2. Applicant's Issues.
3. Character Reference.
4. Birth Certificate.
5. Notification Memorandum.
6. Two Enlisted Performance Reports.

1APR04/ia

October 31, 2003

Air Force BCMR:
USAFMPC/DPMDOA1
Randolph AFB, TX 78150-4737

Dear DRB or BCMR: The following issues are the reasons I believe my discharge should be up graded to honorable. If you disagree, please explain in detail why you disagree. The presumption of regularity that might normally permit you to assume that the service acted correctly in characterizing my service as less than honorable does not apply to my case because of the evidence I am submitting.

1. I received awards for airmen of the month of March 2001; my flight has received outstanding unit of 2001 and an excellence award in 2001
2. I have been a good citizen since discharge: I haven't been arrested nor done any drugs. I've been rebuilding my life by getting back in school and getting a degree in Information Technology, raising my son. Currently I'm holding a descent job at a hospital in ██████████ as an admitting coordinator, so far life is good.
3. My record of NJPs/article 15s indicates only isolated or minor offenses, the two article 15s I have are for the same thing sleeping on duty. When pleading my case higher ups failed to realize the circumstances. At my duty station we work 12+ shifts, the times I was caught sleeping were when I was doing security in the flight line area, watching at numerous times one c-5. There's no way humanly possible that anyone I was working with could stay up for the whole shift, everybody gets some kind of shut eye every time pulling that duty. My discharge I believe had a lot to do with the fact I was a Security Policeman, held at higher standards.
4. My ability to serve was impaired by my youth and immaturity; coming in at the age of 19, I was trying to cut corners to do my job, which got me nowhere except in trouble. As you will see in PIF, a lot of minor stuff happened in my first 6 months on base. Now being a lot mature I realize I was being young and dumb.
5. My ability to serve was impaired because of marital and family and child care problems; I married my wife, who I meet at the base I was stationed at, from the beginning we had problems, so that lead to a lot of stress and inability to concentrate fully on my job. At times I had we had child care problems which lead me to miss some mandatory meetings and firing appointments, cause my wife is also military.
6. My discharge was based on many offenses, but they were mostly only minor offenses with exception of the illegal use of government computers, as you will see in my PIF. If granted and honorable I would like the possibility of re-enlistment. Please consider my discharge upgrade for an honorable. I've grown to be a smarter and wiser person after my discharge in 2002, and my misfortunes in the military have been a learning tool of what not to do in life.

Sincerely,

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

FD 2004-00041

12 DEC 2001

MEMORANDUM FOR AMN [REDACTED]

FROM: 469 ABG/CCQ

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct. The authority for this action is AFPD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Chapter 5, Section H, paragraph 5.50.2, *A Pattern of Misconduct, Conduct Prejudicial to Good Order and Discipline*. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are:
 - a. On or about 21 Mar 99, you who knew of your duties at or near Camp Bullis, Texas, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of 21, as it was your duty to do. For this action, you received nonjudicial punishment on 5 May 99. Punishment consisted of forfeiture of \$200 for one month (Atch 1).
 - b. On or about 21 Sep 99, at or near Rhein-Main Air Base, Germany, you willfully disregarded policy and a lawful order by going to your quarters and retrieving some personal items and taking them back to the Gateway Annex, without first notifying the Desk Sergeant. Additionally, you were found in Gateway Annex with a Sony Playstation and Television, when you should have been on patrol. For this action, you received a Letter of Reprimand (LOR) on 25 Sep 99 (Atch 2).
 - c. On or about 22 Sep 99, at or near Rhein-Main Air Base, Germany, you missed a mandatory Financial Management Briefing at the Family Support Center. For this action, you received a Letter of Counseling (LOC) on 23 Sep 99 (Atch 3).
 - d. On or about 1 Oct 99, at or near Rhein-Main Air Base, Germany, you missed a mandatory military appointment for the Initial Nuclear, Biological, Chemical Warfare Briefing. You were also late for work on two separate occasions prior to this date. For this action you received an LOR on 12 Oct 99 (Atch 4).
 - e. On or about 2 Nov 99, at or near Rhein-Main Air Base, Germany, you falsely stated that you were conducting 100% ID checks at Golf-2, housing gate, while you were sitting in your

vehicle and not conducting ID checks. This action was also a violation of a lawful order and dereliction of duty. For this action, you received an LOR on 5 Nov 99 (Atch 5).

f. On or about 2 Nov 99, at or near Rhein-Main Air Base, Germany, you falsely stated that you were conducting 100% ID checks at Base Lodging when it was discovered you were not. This action was also a violation of a lawful order and dereliction of duty. For this action, you received an LOR on 5 Nov 99 (Atch 6).

g. On or about 7 Nov 99, at or near Rhein-Main Air Base, Germany, you, being on post as a sentinel at building 609 were found sleeping upon your post. For this action, you received nonjudicial punishment on 23 Nov 99. Punishment consisted of a suspended reduction to airman and 3 days extra duty. As a result of the Article 15, an Unfavorable Information File (UIF) was established 2 on Dec 99 (Atch 7).

h. On or about 18 Dec 99, at or near Rhein-Main Air Base, Germany, you, being posted as a sentinel at Hanger number 38 were found sleeping upon your post. As a result of this action, the suspended reduction to the grade of airman from your previous Article 15 was vacated effective 5 Jan 00. An entry in your UIF was made on 26 Jan 00 (Atch 8).

i. On or about 24 Jan 01, at or near Rhein-Main Air Base, Germany, you were derelict in the performance of your duties while posted as Security-1 in the Restricted Area, by not being vigilant during increased Threat Conditions. For this action, you received an LOR on 26 Feb 01 (Atch 9).

j. On or about 12 Feb 01, at or near Rhein-Main Air Base, Germany, you missed a mandatory weapons firing appointment. For this action, you received an LOC on 14 Feb 01 (Atch 10).

k. Shortly before 14 Feb 01, at or near Rhein-Main Air Base, Germany, you were instructed on your next day of break to re-register your vehicle that was parked in Gateway Gardens because the registration and insurance had expired. You failed to do this. It was also discovered that you removed the plates from a vehicle that was currently registered and placed them on your vehicle. For this action, you received an LOR on 14 Feb 01 (Atch 11).

l. On or about 3 Apr 01, at or near Rhein-Main Air Base, Germany, you reported late to your place of duty. For this action, you received an LOR on 3 Apr 01 (Atch 12).

m. On or about 27 Aug 01, you did, at or near Rhein-Main Air Base, Germany, violate a lawful general regulation, to wit: paragraph 6.1.3, Air Force Instruction 33-129, *Transmission of Information Via the Internet*, dated 4 April 2001, by wrongfully processing and displaying obscene language and material consisting of pornographic images and sexually explicit video files via a government computer. For this action, you received nonjudicial punishment on 26 Sep 01. Punishment consisted of reduction to the grade of airman and 14 days extra duty. As a result of this action, an entry was made in your UIF (Atch 13).

FD 2004-00041

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.
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 [REDACTED], Area Defense Counsel, 480-2182, at 0900 hours on 11 Dec 01. 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 17 Dec 2001 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 submit statements in your own behalf, your failure will constitute a waiver of your right to do so.
7. You have previously been scheduled for a medical examination on 26 Nov 01; and had your physical examination.
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 unit orderly room or on the www (<http://afpubs.hq.af.mil/pubfiles/af/36/afi36-3208/afi36-3208.pdf>).

[REDACTED]
 Group Section Commander

Attachments:

1. Art 15, 5 May 99
2. LOR, 25 Sep 99
3. LOC, 23 Sep 99
4. LOR, 12 Oct 99
5. LOR, 5 Nov 99
6. LOR, 5 Nov 99
7. Art 15/UIF, 23 Nov 99
8. AF Form 366/UIF, 5 Jan 00
9. LOR, 26 Feb 01
10. LOC, 14 Feb 01
11. LOR, 14 Feb 01
12. LOR, 3 Apr 01
13. Art 15/UIF, 26 Sep 01
14. Receipt of Notification Memorandum
15. Airman's Statement
16. Recoupment Statement