

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE A1C	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	VOICE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
	X				
	X				
	X				
	X				

ISSUES A94.06 A92.22	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 Nov 2004	CASE NUMBER FD-2004-00058	
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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 Randolph AFB, TX, via video-conference with Andrews AFB, MD.

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

INDORSEMENT		DATE 11/23/2004
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-2004-00058

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board (DRB) with counsel, [REDACTED] at Randolph AFB, TX, via video-conference with Andrews AFB, MD, on November 16, 2004. [REDACTED], a friend and former Air Force enlisted member, also testified.

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

FINDINGS: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's characterization of discharge inequitable.

ISSUE: The applicant received a general discharge for misconduct (minor disciplinary infractions) and cited two issues:

Issue 1. Applicant contends discharge was inequitable because it was too harsh. The DRB concurred and noted that the records indicated the applicant received an Article 15, two Letters of Reprimand, and one Letter of Counseling during his almost 28 months of active duty, and only one, the Article 15 for underage drinking for which the applicant took full responsibility, was of a somewhat egregious nature. The Letter of Counseling was for failure to have all items required for his personal mobility bag, yet testimony and documents in the record revealed that he was not singled out for this in that his entire mobility team received LOCs which were never intended to be a part of anyone's PIF. One of the LORs was for sponsoring a party at his off-base residency that lead to the consumption of alcohol by at least two underage members of his squadron. The Board noted that the LOR contained the following comments by his commander "the results of questioning you and many other witnesses brings me to conclude that you and your roommates had good intentions of having a controlled environment to celebrate the millennium which included designated drivers and a cursory attempt to advise those under 21 not to consume alcohol", and testimony and documents in the record supported the fact that the applicant did everything within his control to prohibit underage drinking. The other LOR was for failure to report personal knowledge of marijuana use by others in the wing and for being personally implicated in the use of marijuana by other Air Force members. The Board noted that the applicant had never been formally charged with the use of marijuana and testimony and the record showed that the applicant had no first hand knowledge of marijuana use within the wing and completed four urinalysis screenings during this period which were all negative for any form of narcotics. The records also contained documentation of his being recognized as a Top Performer during his Security Police training, an Air Force Achievement Medal while in a deployed environment, and one EPR with an overall five rating and numerous laudatory comments.

Issue 2 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. He has been working full time since his discharge and testified that he was recently hired by the Department of Homeland Security. He has been attending school and recently earned an Associates degree with a 3.8 GPA. He is currently pursuing a BA degree on an academic scholarship.

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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization should be changed to Honorable under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]

(Former A1C) (HGH A1C)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Eielson AFB, AK on 21 Jun 00 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 29 Sep 78. Enlmt Age: 19 1/12. Disch Age: 21 8/12. Educ: HS DIPL. AFQT: N/A. A-70, E-90, G-84, M-84. PAFSC: 3P031 - Security Forces Apprentice. DAS: 18 Jul 98.

b. Prior Sv: (1) AFRes 19 Nov 97 - 24 Feb 98 (3 months 6 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 25 Feb 98 for 4 yrs. Svd: 2 Yrs 3 Mo 28 Das, all AMS.

b. Grade Status: A1C - 25 Jun 99
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 23 Sep 98, Eielson AFB, AK - Article 92. You, who should have known of your duties, on or about 6 Sep 98, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol while under the age of 21, as it was your duty to do. Forfeiture of \$125.00, and 20 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 08 MAY 00 - Failure to report personal knowledge of marijuana use by others in the dormitory, and personal implication in the use of marijuana by other Air Force members.
LOR, 20 JAN 00 - Contributing to the delinquency of two minors at off-base residence.
LOC, 02 FEB 99 - Dereliction of duty.

f. CM: None.

g. Record of SV: 25 Feb 98 - 24 Oct 99 Eielson AFB 5 (Initial)

h. Awards & Decs: AFAM, AFTR, AFEM.

i. Stmt of Sv: TMS: (2) Yrs (7) Mos (3) Das
TAMS: (2) Yrs (3) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 17 Feb 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Memorandum For Discharge Upgrade Board, 13 Feb 04.
2. Certificate of Recognition.
3. Two Letters of Appreciation.
4. Certificate of Recognition.
5. Enlisted Performance Report.
6. Response to Discharge Recommendation.
7. Two Letters of Support.

16MAR04/ia

13 February 04

MEMORANDUM FOR DISCHARGE UPGRADE BOARD

FROM: [REDACTED]

SUBJECT: Request for Discharge Upgrade

1. I am writing this letter as a request for a discharge upgrade. I am requesting a board hearing but would also like to submit this letter to outline my request and give the reasons I feel an upgrade is justified.

2. I was not old enough at the time of my enlistment to join a civilian police department so I decided to enlist in the Air Force as a part of Security Forces. I planned to take the skills I learned and apply them to my efforts of becoming a police officer. I joined the Air Force in Feb 98 and volunteered for Security Forces.

3. I excelled immediately during tech school. I graduated first in my class academically and for that was awarded the "Top Performer" award (Attachment 1). I graduated in Jun 98 and returned home to participate in the recruiter assistance program before going to my first duty station.

4. My first duty station was Eielson AFB, Alaska. Upon arrival there I strived to do my very best and wanted to excel at everything I attempted. I volunteered and served on the mobility team my first year there. During this time I received numerous Letters of Appreciation and a personal "good job" letter from our first sergeant (Attachments 2-4). I also earned excellent ratings on Quality Control Evaluations and a "5" EPR rating (Attachment 5). In Jun 99, I volunteered for and served a 120 day TDY at Al Jaber Air Base, Kuwait. While deployed in Kuwait I volunteered for numerous extra duties and earned the Air Force Achievement Medal and the Air Expeditionary Medal. Upon return from my TDY, I served on the ROBOT Team, which is responsible for responding to plane crashes in the arctic mountains of Alaska.

5. I would like to address my discharge and the conditions surrounding it. According to my commander, I was discharged for "excessive paperwork". The paperwork that he was referring to was an Article 15, a Letter of Counseling, and 2 Letters of Reprimand. Of these 4, the Article 15 was the only punishment that I feel was warranted. The other 3 were not justified and never should have been issued to me. The 4 pieces of paperwork are best addressed in my letter to my commander in response to his recommendation of discharge, which I have enclosed as Attachment 6. The following is an excerpt from that letter.

"6. I would like to briefly address the few pieces of paperwork being used against me in this discharge action. On 16 Sep 98, I received an Article 15 for underage drinking. I believe this is the only true mistake made since I have been in the Air Force. At the time of the incident, I was a young 19-year-old still brand new to

the Air Force. I tried to grow up too fast and did not give any thought to the possible ramifications of my actions. Then, because of that immaturity, I was punished. I took my punishment and used it as motivation to excel in my future, which I did. I learned to think things through before acting upon them.

7. On 4 Feb 99, I received a Letter of Counseling for not having all required equipment at a mobility bag drag. I was not singled out for this. The entire mobility team received Letters of Counseling, while the fire team leaders and squad leaders received Letters of Reprimand. The Operations Officer then ordered that none of the paperwork issued for that be left in anyone's file. This piece of paperwork was never supposed to make it into my personnel file and I respectfully request that it be omitted from this package and not considered in the separation decision.

8. On 25 Jan 00, I received a Letter of Reprimand for contributing to the delinquency of two minors. I originally did not respond to this because I did not fully understand the procedures since this was my first Letter of Reprimand. However I will say now that I did not give any alcohol to any minors. I took every precaution I could think of. I supplied sodas and other non-alcoholic drinks for designated drivers and minors. I made sure everyone had designated drivers that night and if they did not, I took it upon myself to find one before they left. I briefed all underage people at my house not to drink and that I did not want to catch them drinking. The people that got in trouble were not at my house all night. By their own admittance, they got to my house late because they were coming from somewhere else and got the alcohol from someone other than myself (Attachment 7). I never saw any of them drinking and if I had I would have done everything in my power to stop it. I should not have to take responsibility for something that I did not know was happening and was kept hidden from me. I do not feel I deserved this Letter of Reprimand and request that it not be used against me in your consideration.

9. On 8 May 00, I received a Letter of Reprimand for not reporting other Air Force members using drugs and was accused of using them myself. First, my knowledge to the drug use was so limited that I did not feel I could report anyone on just suspicion. I never saw anyone do anything around me so all I had to go on was rumors and suspicion. I did not feel that was strong enough probable cause so I did the next best thing I could think of, which was to stop hanging around with him. I thought I was doing the right thing at the time by avoiding the situation.

10. The allegations of me using drugs in the Air Force are absurd and unfounded. The Air Force has no evidence that I used drugs and no witnesses that said they saw me do it. In five months, Dec 99- Apr 00, I was randomly chosen for two urinalysis tests, volunteered for one and was command directed for the forth. The time period involving the narcotic investigation is thoroughly covered between Dec 99- Apr 00. All four tests returned negative for any form of narcotics. I

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submit that this is enough proof that I am innocent of these crimes. I am being punished for suspicion and allegations without any evidence of wrongdoing. The facts in the case support my initial statement. I have not used any illegal narcotics while enlisted in the United States Air Force. I do not think it is fair to be punished for an allegation with no facts to support it."

6. After I was discharged from the Air Force I went to work for [REDACTED] Inc. in the warehouse. I worked hard like I always have and in less than a year I got promoted to inside sales representative and was moved into the office. While there I coordinated shipping of product to multiple plants around the country. I worked there for a little over two years before I left to return working for the government at TSA. I have been working for TSA ever since. I left [REDACTED] under good terms and am eligible for rehire. I have also enclosed a letter from their president as a character reference (Attachment 8).

7. Along with working full time, I have also been going to college at [REDACTED] County College. I have maintained a 3.80 GPA and will earn my Associates Degree in May 04. After graduating I plan to attend a University and begin working toward my Bachelors Degree in marketing.

8. I respectfully request that this board will grant me a discharge upgrade to "Honorable" so that I may pursue my initial dream of becoming a police officer. I am a good person and a hard worker as shown with my history and accomplishments. I feel my discharge was unjust and request that you help make my stay in the U.S. Air Force an honorable one. Thank you for taking the time to hear my case.

- [REDACTED]
- Attachment 1- "Top Performer" Award
 - Attachment 2- Letter of Appreciation
 - Attachment 3- Letter of Appreciation
 - Attachment 4- Letter from First Sergeant
 - Attachment 5- EPR
 - Attachment 6- Response to Discharge Notification
 - Attachment 7- Letter from [REDACTED]
 - Attachment 8- Character Letter from [REDACTED] President/CEO

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2004-00000



MAY 19 2000

MEMORANDUM FOR [REDACTED], PACAF

FROM: 354 SFS/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 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, you will be discharged and your service will be characterized as general. You will not be given an opportunity for probation and rehabilitation.
2. My reasons for this action are as follows:
 - a. On or about 6 Sep 98, you failed to refrain from drinking alcohol while under the legal age of 21. For this infraction, you received an Article 15 on 16 Sep 98 (Atch 1).
 - b. On 25 Jan 99, you failed to have all items required for your personal mobility bag. For this infraction, you received a Letter of Counseling on 4 Feb 99 (Atch 2).
 - c. On or about 1 Jan 00, you were culpable in contributing to the delinquency of two minors at your off-base residence. For this infraction, you received a Letter of Reprimand on 25 Jan 00 (Atch 3).
 - d. In Apr 00, an investigation revealed that you had knowledge of others in the wing using marijuana and failed to report it. You were also implicated by other Air Force members for using marijuana. For these infractions, you received a Letter of Reprimand on 8 May 00 (Atch 4). An Unfavorable Information File was established in light of this offense and the LOR was placed in the UIF (Atch 5).
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 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, Building 3112, Room 155, Eielson AFB, Alaska, on 19 May 00 at 1400. 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 (3 duty days) MAY 24 2000 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

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 Examination Section, 354th Medical Group, Building 3349, at 1400 on 19 May 00 for the 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 your orderly room.



Commander, 354 SFS

Attachments:

1. Article 15, dtd 16 Sep 98
2. Letter of Counseling, dtd 2 Feb 99
3. Letter of Reprimand, dtd 20 Jan 00
4. Letter of Reprimand, dtd 8 May 00
5. Unfavorable Information File, dtd 9 May 00