

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						
<table border="1"> <tr> <th colspan="2">COUNSEL</th> </tr> <tr> <td>YES</td> <td>No</td> </tr> <tr> <td></td> <td>X</td> </tr> </table>		COUNSEL		YES	No		X	NAME OF COUNSEL AND OR ORGANIZATION	
COUNSEL									
YES	No								
	X								
		ADDRESS AND OR ORGANIZATION OF COUNSEL							

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<div style="border: 1px dashed black; width: 100%; height: 100%;"></div>					X
					X
					X
					X
					X

ISSUES A94.53 A92.21	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 06 Aug 2004	CASE NUMBER FD-2004-00089
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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: 8/6/2004
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-2004-00089

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. Applicant was discharged for conduct prejudicial to good order and discipline. The records indicated the applicant received two Articles 15, a Letter of Reprimand, a vacation of suspended punishment, and he was convicted of multiple offenses by a Special Court Martial. His misconduct included failure to obey lawful orders, failure to perform his directed extra duties, driving on revocation, subsequently driving without a valid license, making false official statements, failure to go, and disrespect to a noncommissioned officer. Applicant does not dispute the reasons for the discharge, but notes his actions were careless rather than criminal. The DRB opined that through the unit's extensive administrative and judicial actions, the applicant had ample opportunities to change his negative behavior and was unwilling or unable 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.

Applicant noted his post-service activities. The DRB was pleased to see that the applicant was doing well, is attending college, and has a good job. However, these accomplishments do not pertain to his period of service and no inequity or impropriety in his discharge was suggested or found in the course of the record review. The Board concluded applicant's misconduct appropriately characterized his term of service.

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 AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Shaw AFB, SC on 5 Sep 01 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Jan 78. Enlmt Age: 18 1/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-55, E-46, G-32, M-35. PAFSC: 2W151 - Aircraft Armament Systems Journeyman. DAS: 31 Jul 00.

b. Prior Sv: (1) AFRes 8 Mar 96 - 3 Sep 96 (5 months 27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Sep 96 for 4 yrs. Extended 3 Jun 99 for 10 months. Svd: 5 Yrs 0 Mo 2 Das, all AMS.

b. Grade Status: AB - 6 Jul 01 (SCMO No.9, 21 Aug 01)
 Amn - 6 Mar 01 (Vacation of Article 15, 16 Apr 01)
 A1C - 6 Mar 01 (Article 15, 6 Mar 01)
 SrA - 4 Sep 99
 A1C - 4 Jan 98
 Amn - 4 Mar 97

c. Time Lost: None.

d. Art 15's: (1) 16 Apr 01, Vacation, Shaw AFB, SC - Article 92. You, having knowledge of a lawful order issued by LTC [REDACTED] to wit: to perform extra duty for 30 days, an order which it was your duty to obey, did, on divers occasions between on or about 18 Mar 01 and on or about 1 Apr 01, fail to obey the same by not showing up for your extra duty. Reduction to Airman. (No appeal) (No mitigation)

(2) 6 Mar 01, Shaw AFB, SC - Article 92. You did, on or about 9 Dec 98 to on or about 30 Jan 01, fail to obey a lawful regulation, to wit: AFI 31-204, para 2.1, by wrongfully operating your personal vehicle without a valid state driver's license. Article 107. You did, on or about 18 Jan 01, with intent to deceive, make to SSgt [REDACTED] an official statement, to wit: that the First Sergeant made an appointment for you for 19 Jan 01 that you had to attend, or words to that affect, which statement was totally false, and was then known by you

to be so false. Reduction to Airman (reduction in excess of A1C suspended), 30 days extra duty (deferred). (No appeal) (No mitigation)

- (3) 23 Nov 98, Pope AFB, NC - Article 92. You, having knowledge knowledge of a lawful order issued by 43 SPTG/CD, to revoke your driving privileges for two years, after Security Forces cited you on 7 Aug 97 for driving while license revoked, an order which it was your duty to obey, did, on or about 4 Nov 98, fail to obey the same by driving your vehicle on Pope AFB. Suspended reduction to Airman, forfeiture of \$242.00 pay, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 7 DEC 00 - Failure to go.

f. CM: Special Court Martial No.9 - 21 Aug 01

CHARGE I: Article 86. Plea: Not Guilty. Finding: Guilty.

Specification 1: Plea: Not Guilty. Finding: Not Guilty.

Specification 2: Did, on or about 6 Apr 01, without authority, fail to go at the time prescribed to his appointed place of duty. Plea: Not Guilty. Finding: Guilty.

Specification 3: Did, on or about 10 May 01, without authority, fail to go at the time prescribed to his appointed place of duty. Plea: Not Guilty. Finding: Guilty.

CHARGE II: Article 91. Plea: Not Guilty. Finding: Guilty.

Specification 1: On or about 1 Apr 01, was disrespectful in language toward MSgt [REDACTED] a superior noncommissioned officer, then known by the said Airman [REDACTED] to be a superior noncommissioned officer, who was then in the execution of his office, by saying to him "Don't call me or come to my residence anymore, you just try to come over, you just try it once," or words to that effect. Plea: Not Guilty. Finding: Guilty.

Specification 2 and 3: Plea: Not Guilty. Finding: Not Guilty.

CHARGE III: Article 92. Plea: Not Guilty. Finding: Guilty.

Specification 1: Having knowledge of a lawful order issued by LTC [REDACTED] 20th Support Group Deputy Commander, to wit: Revocation of Driving Privilege Memorandum, issued on or about 23 Feb 01, and stating, "Your installation driving privileges are hereby revoked for a period of 2 years, effective immediately. You are ordered not to operate a motor vehicle on Shaw AFB or any other military installation," an order which it was your duty to

obey, did, at Shaw AFB, SC, on or about 7 Apr 01, fail to obey the same by wrongfully driving a motor vehicle on Shaw AFB, SC. Plea: Not Guilty. Finding: Guilty.

Specification 2: Plea: Not Guilty. Finding: Not Guilty.

Specification 3: Who knew of his duties, on or about 27 Apr 01, was derelict in the performance of those duties in that he willfully failed to complete the list of assigned cleaning tasks given by 2Lt [REDACTED] as it was his duty to do. Plea: Not Guilty. Finding: Guilty.

Specification 4: Plea: Not Guilty. Finding: Not Guilty.

CHARGE IV: Article 107. Plea: Not Guilty. Findings: Guilty.

Specification: Did, on or about 27 Apr 01, with intent to deceive, make to 2Lt [REDACTED] an official statement, to wit: that he completed a list of assigned tasks including cleaning glass doors in buildings 1606, 1630, and 1631, vacuuming in those same buildings, and picking up trash around his squadron, which statement was totally false, and was then known by the said Airman [REDACTED] to be so false. Plea: Not Guilty. Finding: Guilty. Sentence adjudged by officer and enlisted members on 22 Jun 01: Reduction to AB, forfeiture of \$287.00 pay, hard labor without confinement for 10 days, and a reprimand.

g. Record of SV: 04 Sep 96 - 03 May 98 Pope AFB 4 (Initial)
 04 May 98 - 25 Apr 99 Pope AFB 4 (CRO)
 26 Apr 99 - 25 Apr 00 Osan AB 5 (Annual)

h. Awards & Decs: AFLSAR, AFTR, AFEM, AFOUA.

i. Stmt of Sv: TMS: (5) Yrs (5) Mos (29) Das
 TAMS: (5) Yrs (0) Mos (2) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 3 Mar 04.
 (Change Discharge to Honorable)

Issue 1: Since my Discharge, I have shown to be a productive citizen in society. I have no criminal record of any kind and have been gainfully employed since one month after my discharge. I am also now enrolled in college and I am on track to be a fully certified Pharmacist within 4 years (after Medical School). I am married with one child and have made great progress since my days of active duty.

I am very concerned that my general discharge may give a bad impression of me and not really tell who I am and what I have accomplished (or what I hope to accomplish in the future). This letter is to formally apologize to those I that (sic) I have affected during my enlistment, and also to my country whom I let down. I ask the board to show mercy and grant me the upgrade to an honorable discharge. My actions were not criminal, but careless and I pray that the board

FD2004-00089

see's (sic) fit to deem my punishment as having been served.

ATCH
None.

14MAY04/ia



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

MEMORANDUM FOR AMN [REDACTED]

FROM: 78 FS/CC
716 Fighting Falcon Street
Shaw AFB SC 29152

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct - conduct prejudicial to good order and discipline. 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. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On or about 4 Nov 98, you failed to obey a lawful order by driving your vehicle while your license was revoked. For this misconduct, you received an Article 15 nonjudicial punishment action, dated 23 Nov 98. Punishment consisted of a suspended reduction to the grade of Airman, forfeiture of \$242.00 pay and 14 days extra duty.

b. On or about 30 Nov 00, you failed to go to your appointed place of duty at the prescribed time. For this misconduct, you received a letter of reprimand (LOR), dated 7 Dec 00. An Unfavorable Information File (UIF) was also established on 21 Dec 00.

c. Between on or about 9 Dec 98 and on or about 30 Jan 01, you wrongfully operated your personal vehicle without a valid state driver's license. Additionally, on or about 18 Jan 01, with intent to deceive, you made an official statement to Staff Sergeant [REDACTED], knowing the statement was totally false. For these acts of misconduct, you received an Article 15 nonjudicial punishment action, dated 6 Mar 01. Punishment consisted of reduction to the grade of Airman (reduction in excess of A1C was suspended) and 30 days extra duty.

d. Between on or about 18 Mar 01 and on or about 1 Apr 01, on divers occasions, you failed to show up for your extra duty. For this misconduct, your previously suspended reduction to the grade of Airman was vacated, dated 16 Apr 01.

e. On or about 22 Jun 01, you were convicted by Special Court Martial for failing to go, on divers occasions, to your appointed place of duty at the prescribed times, for being disrespectful in language to a superior noncommissioned officer, for disobeying a lawful order, for being derelict in performance of your duties and for making a false official statement. For this misconduct, you were sentenced to a reduction to the grade of Airman Basic, forfeiture of \$287.00 pay, hard labor without confinement for 10 days, and a reprimand.

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 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 services.

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 Capt [REDACTED], Area Defense Counsel, 895-9530, on ___ Jun 01, at ___ hours. 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 within three duty 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.
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 must report to the Shaw AFB Hospital, Physical Examinations Section, between the hours of 1100 – 1300, Mon – Thurs, for a medical 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 orderly room.
9. The Air Force is entitled to recoup a portion of educational assistance, special pay, or bonus monies which you received, if any, if you separate before completing the period of active duty you agreed to serve. 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.
10. Execute the attached acknowledgment and return it to me immediately.

[REDACTED] Lt Col, USAF
Commander

6 Attachments:

1. AF Form 3070, 23 Nov 98 w/Atchs
2. LOR, 7 Dec 00, w/Atchs
3. AF Form 3070, 6 Mar 01 w/Atchs
4. AF Form 366, 16 Apr 01 w/Atchs
5. AF Form 1359, 22 Jun 01
6. Respondent's Receipt of Notification (Tab 5)