

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AB

TYPE GEN

X

PERSONAL APPEARANCE

RECORD REVIEW

COUNSEL

NAME OF COUNSEL AND OR ORGANIZATION

ADDRESS AND OR ORGANIZATION OF COUNSEL

YES

No

Texas Veterans Commission

X

MEMBER SITTING

VOTE OF THE BOARD

HON

GEN

UOTHC

OTHER

DENY

X

X

X

X

X

ISSUES

A67.09
A94.54
A92.36

INDEX NUMBER

A67.00
A67.09
A92.36
A94.54

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-2004-00101

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. via video teleconferencing with Randolph AFB, TX.

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

INDORSEMENT

DATE: 11/16/2004

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-2004-00101

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant exercised his right to make a personal appearance before the Discharge Review Board (DRB).

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

FINDINGS: Upgrade of discharge, change of reason and authority for 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.

ISSUE:

Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 and four Letters of Reprimand for misconduct. While the applicant contends that these incidents are very minor, the applicant did not contest the underlying facts. It is the conclusion of the DRB that the applicant's misconduct provides a sufficient basis for discharge. He confirmed that he was given notice of these administrative actions and that he was afforded an opportunity to respond. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded that while the applicant's service was generally honest and faithful, a general under honorable conditions service characterization is warranted because significant negative aspects of the applicant's conduct outweighed positive aspects of his military record. Accordingly, the characterization of the discharge received by the applicant was found to be appropriate.

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, to change the reason or authority of discharge, or to change 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

[REDACTED]

(Former AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Sheppard AFB, TX on 10 Jun 03 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 20 Aug 83. Enlmt Age: 18 0/12. Disch Age: 19 9/12. Educ: HS DIPL. AFQT: N/A. A-69, E-70, G-72, M-57. PAFSC: 2A333A - Tactical Aircraft Maintenance Helper. DAS: 7 Oct 02.

b. Prior Sv: (1) AFRes 24 Aug 01 - 19 Aug 02 (11 months 27 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 20 Aug 02 for 6 yrs. Svd: 0 Yrs 9 Mo 22 Das, all AMS.

b. Grade Status: AB - 11 Apr 03 (Article 15, 11 Apr 03)
A1C - 4 Oct 02

c. Time Lost: None.

d. Art 15's: (1) 11 Apr 03, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 8 Mar 03, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcohol beverages while under the legal drinking age of 21, as it was your duty to do. Article 111. You did, on or about 9 Mar 03, at the main gate at Sheppard AFB, physically control a vehicle, to wit: a passenger car while drunk. Reduction to AB, and a reprimand.
(No appeal) (No mitigation)

e. Additional: LOR, UNDATED - Disrespect towards CQ wing guard.
LOR, 22 APR 03 - Violation of phase program.
LOR, UNDATED - Violation of phase program.
LOR, UNDATED - Smoking during duty hours.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (9) Mos (18) Das
TAMS: (0) Yrs (9) Mos (22) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 19 Mar 04.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: My name is [REDACTED] and I am writing in reference to my seperation (sic) from the United States Air Force. My wishes are to have my discharge upgraded from (General) under honorable conditions to honorable. If this is not possible I would like to have my re-entry code upgraded so that I may re-enlist into another branch of the military. Please take my request on this matter into consideration, they are of much importance to me. Thank you.

ATCH
None.

9APR04/ia

FD2004-00101



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

MEMORANDUM FOR AB [REDACTED]

MAY 29 2003

FROM: 362 TRS/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 honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You were, at or near Sheppard AFB TX, on or about 19 Apr 03, disrespectful to [REDACTED] who was performing his duties as wing guard. For this misconduct you received a Letter of Reprimand (LOR).

b. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 16 Apr 03, were derelict in the performance of those duties in that you failed to remain in proper military uniform and not wear civilian clothes, as it was your duty to do. For this misconduct and subparagraph "c" below, you received an LOR on 22 Apr 03.

c. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 16 Apr 03, were derelict in the performance of those duties in that you failed to refrain from operating a privately owned vehicle (POV), as it was your duty to do.


d. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 14 Apr 03, were derelict in the performance of those duties in that you failed to remain in proper military uniform and not wear civilian clothes, as it was your duty to do. For this misconduct you received an LOR.

e. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 14 Apr 03, were derelict in the performance of those duties in that you failed to refrain from smoking, as it was your duty to do. For this misconduct you received an LOR.

f. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 8 Mar 03, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the legal drinking age of 21, as it was your duty to do. For this misconduct and subparagraph "g" below, you received Article 15 punishment on 11 Apr 03.

g. You did, at or near Sheppard AFB TX, on or about 9 Mar 03, at the main gate at Sheppard AFB, physically control a vehicle, to wit: a passenger car while drunk.

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 will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

3. 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  at building 1638 on 30 May 03 at 1400. You may consult civilian counsel at your own expense.

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by JUN 03 2003 unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the 82d Medical Group, Bldg 1200, Physical Examinations, at 6:00 on 2 June 03.

7. 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 Commander's Support Staff Office.

8. Execute the attached acknowledgment and return it to me immediately.


Squadron Section Co. 

Attachments:

1. LOR, undated
2. AF Form 1058, 22 Apr 03, w/1atch
3. MFR, 22 May 03
4. LOR, 22 Apr 03
5. LOR, undated
6. LOR, undated

7. AF Form 116, [REDACTED] 11 Mar 03
8. AF Form 1168, [REDACTED] 11 Mar 03
9. AF Form 1168, [REDACTED] 11 Mar 03
10. AF Form 1168, [REDACTED] 11 Mar 03
11. AF Form 1168, [REDACTED] 10 Mar 03
12. AF Form 3070, 11 Apr 03
13. Incident Report Summary, I2003030049
14. DD Form 2708, 9 Mar 03
15. DD Form 2708, 9 Mar 03
16. DD Form 2708, 9 Mar 03
17. MFR, [REDACTED] 9 Mar 03
18. 82 SFS/CSF Memo, 9 Mar 03
19. 82 SFS/CSF Memo, 9 Mar 03
20. Field Sobriety Test Worksheet, 9 Mar 03
21. AF Form 1168, [REDACTED] 9 Mar 03
22. 82 SPTG/CC Memo, 9 Mar 03
23. DD Form 1920, [REDACTED] 9 Mar 03
24. DD Form 1920, [REDACTED] 9 Mar 03
25. AF Form 1168, [REDACTED] 9 Mar 03
26. AF Form 1168, [REDACTED] 9 Mar 03
27. AF Form 1168, [REDACTED] 9 Mar 03
28. Intoxilyzer Report, 9 Mar 03
29. Student Training Report, 03074
30. LAFB Form 205, 30 Sep 02
31. Airman's Receipt to Notification Memorandum [REDACTED]