

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	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL NAME OF COUNSEL AND OR ORGANIZATION		ADDRESS AND OR ORGANIZATION OF COUNSEL	
YES	No		
	X		

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

ISSUES A92.21 A93.01	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 21 May 2004	CASE NUMBER FD-2004-00117	
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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

[Handwritten Signature]

INDORSEMENT		DATE: 5/21/2004
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-2004-00117

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

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 and change of reason and authority for discharge, and change of reenlistment code are 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:

Issue 1. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The applicant received two Articles 15, a Letter of Reprimand and one Record of Individual Counseling. The misconduct included failure to go, dereliction of duty, underage drinking, failure to shave, leaving place of duty without authority and incapacitated for the proper performance of duties. The DRB recognized the applicant was 20 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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. However, no inequity or impropriety in his discharge was suggested or found in the course of the hearing. The Board concluded the misconduct of the applicant 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

[REDACTED]
[REDACTED]
(Former AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Ellsworth AFB, SD on 9 Jul 99 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: 15 Nov 78. Enlmt Age: 19 1/12. Disch Age: 20 7/12. Educ: HS DIPL. AFQT: N/A. A-68, E-81, G-88, M-78. PAFSC: 1T131 - Aircrew Life Support Apprentice. DAS: 16 Jun 98.

b. Prior Sv: (1) AFRes 12 Jan 98 - 17 Feb 98 (1 month 6 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 18 Feb 98 for 4 yrs. Svd: 1 Yrs 4 Mo 22 Das, all AMS.

b. Grade Status: AMN - 28 Mar 99
AB - 28 Sep 98 (Article 15, 28 Sep 98)
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 22 Oct 98, Ellsworth AFB, SD - Article 86. You did, on or about 1 Oct 98 and on or about 2 Oct 98, without authority, fail to go at the time prescribed to your appointed place of duty. Thirty days restriction and 30 days extra duty. (No appeal) (No mitigation)

(2) 28 Sep 98, Ellsworth AFB, SD - Article 86. You did, on or about 14 Sep 98, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties, on or about 14 Sep 98, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the state legal drinking age of 21, as it was your duty to do. Article 134. You were, on or about 14 Sep 98, as a result of wrongful previous overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of your duties. Reduction to AB, 30 days restriction, and 30 days extra duty. (No appeal) (No mitigation)

e. Additional: RIC, 27 JAN 99 - Failure to shave prior to going to work.

LOR, 16 JUN 99 - Leaving place of duty without authority.

FD2004-00117

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (5) Mos (28) Das
TAMS: (1) Yrs (4) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 22 Mar 04.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.

30APR04/ia

MEMORANDUM FOR MEMBERS OF THE DISCHARGE REVIEW BOARD

FROM: [REDACTED]

SUBJECT: ISSUES

1. I submit to you the board these reasons in support of my proposition that my discharge should be upgraded to honorable. On the occasion that you disagree, please explain in detail your reasons in a response letter. Please consider the following statements.
2. Allow me to briefly give an account of my tenure in the US Air Force. After enlisting on 18 Feb. 1998, I excelled as a frosh Airman in basic training. Having missed the distinction of Honor Graduate by only one discrepancy, I arrived at tech school ready to make an Air Force name for myself. This I succeeded in by completing my training as an Honor Grad. (99th percentile overall). Then I was to report to Ellsworth Air Force Base, the 77th Bomb Squadron. Working with the B-1 aircraft and the people of the 77th was a great experience, even in lieu of my misconduct. This unappealing record began after I had been on base for only 2 months. I had proposed to my wife the week before my infraction and felt reason to celebrate her acceptance. But I resorted to celebrating illegally as I consumed alcohol underage and suffered appropriate consequences for my behavior. This first article 15 was very much a wake up call for me as an Airman. Having the merciful considerations of Col. [REDACTED] in mind as well as my future, I was dedicated to shaping up. Unfortunately my next violation doesn't reflect this, even as it produced another almost immediate Article 15. In all seriousness, my not reporting to duty first before a doctor's appointment was not an act of willing maliciousness. If it were, this would certainly not be intelligent given my situation with the squadron. Facing separation from the Air Force with the first Article 15, I wasn't going to intentionally ruin my prospects. Thus as the record shows, minus one instance of forgetting to shave, I was a model airman. I married my wife, bore the shame and dock of rank in my squadron, and looked forward to establishing my good work into the mission of my section, squadron, wing, and Air Force. However, on the 8th of June, almost 9 months after my poor conduct involving alcohol and after much character improvement, I mistakenly left my section early after doing all in my power to determine if my duties were complete. While the mistake is surely mine, this was done in every innocence and was not the act of an unworthy airman. On this pretense, one can realize the mistake I made, having left my section early, was genuinely unintentional. I was only vaguely briefed after the fact that I had caused unnecessary difficulty for Col. [REDACTED]. Thus to my surprise, I received his Letter of Reprimand and the recommendation for discharge only a week after finally moving on base with my new wife.
3. Upon reflecting on my tenure in the U.S. Air Force, the first description that comes to mind is immaturity. But an element that the records do not expose is the growth I had during my assignment at Ellsworth AFB. The incidents involving the Article 15's were ones happening only a 2 months after tech. school. Lt. Col. [REDACTED] saw the potential in me and thus did not follow through with his first inclination to discharge me after my altercations during September of 1998.

Submitted by [REDACTED]

4. Then and today it is my understanding that the letter of reprimand and recommendation for discharge handed down was one of haste by Lt. Col. [REDACTED] and Lt. Col. [REDACTED]. Col. [REDACTED] remarked his embarrassment in his inability to retrieve his gear, which I had inadvertently locked in the section. Regardless the mistake is mine. But this mistake, along with the others, was minor and by no means malicious.
5. After my discharge, needing to do my part of providing for my wife, I immediately explored my options to establish my self in civilian life. Rather than become a direct burden on the government, I forwent unemployment benefits and applied anywhere and everywhere I could. I was offered a job as a teller for Bank of America and to supplement my part time hours there, I took a second offer to work in a woodworking store. After my wife and I acquired an apartment of our own, I registered for classes in community college. Even with my success at Bank of America and being offered a personal banker's position for my accomplishments, I desired to find work where I might have more stability and continue pursuing my academic goals. Opportunity arose with a fledgling company in the aviation industry called ALF Enterprises. Having time well spent at this position and performing exceedingly well in school (4.0 GPA and multiple dean's lists among other achievements), I had confidence in making an investment in a home of my own in the year 2002. During all these professional endeavors, I sought personal growth in church for my own families' benefit and the benefit of my community. I took membership vows before my fellow congregates on Easter of 2002. Also, I have had the pleasure of serving as a Big Brother in the Big Brothers/Big Sisters program in AZ.
6. We have now lived in our town home for two years now this May. Currently, I have plans of finishing work for my AA degree and thus transferring to the philosophy department and history department at Arizona State University in the Fall 2004.
7. My intentions to share with the board so much of my recollections and post-service activities are to display what attitude and character I have had since the time of my discharge. I propose to the board that while my conduct collectively did constitute a general discharge, I had already underwent the transformation in my sense of duty and conduct before my completely unintentional infraction on the 8th of June. Simply put, I was an unrecognized asset to Ellsworth AFB and was discharged due to a misconception of my character. The record denotes that not only were my problems few and minor, but my behavior was on the rise from immaturity to having a fruitful career in the U.S. Air Force. The evidence of my honorable attitude at the time of my discharge is shown in my achievements and activity immediately following July of 1999.

Respectfully Submitted,

[REDACTED]

22 March 2004

TO: Members of the Discharge Review Board

FROM: [REDACTED]

SUBJECT: Reference to Cumulative Academic Performance

Below is a photocopy of my most recent grade report for your consideration. Please note on the lower left the 4.0 cumulative GPA. Also the 62 credit hours accumulated, only 5 credit hours shy of a degree in applied arts. All were acquired while working full time over 3 years.

Cordially,

[REDACTED SIGNATURE]

PARADISE VALLEY COMMUNITY COLLEGE
 11-01 NORTH 32ND STREET
 PHOENIX AZ 85032

12/22/2003
 PAGE 1 OF 1

SUBJ. CODE	COURSE NO.	SECTION NO.	COURSE DESCRIPTION	GRADE		SEMESTER HOURS	GRADE POINTS	STUDENT NAME																
				MID	FIN			STUDENT NO.	SEMESTER	YEAR														
REPORT CARDS WILL NO LONGER BE MAILED. STUDENTS MAY ACCESS GRADES AT WWW.PVC.MARICOPA.EDU/ADMISSIONS/								[REDACTED]																
SPC110	3154		COMPUTER USAGE &	A		3.0	12.0	2003 FALL																
SPA201	6541		INTERMEDIATE SPA	A		4.0	16.0	PARADISE VALLEY COMMUNITY COLLEGE																
<table border="1"> <caption>GRADE KEY</caption> <tr> <td>A-EXCELLENT = 4.0 GP</td> <td>N - AUDIT</td> </tr> <tr> <td>B-GOOD = 3.0 GP</td> <td>W - OFFICIAL WITHDRAWAL</td> </tr> <tr> <td>C-AVERAGE = 2.0 GP</td> <td>I - INCOMPLETE</td> </tr> <tr> <td>D-UNSATIS = 1.0 GP</td> <td>Z - NO CREDIT</td> </tr> <tr> <td>F-FAILURE = 0.0 GP</td> <td>P - CREDIT (NOT COMPUTED IN GPA)</td> </tr> <tr> <td>Y-WITHDRAWAL FAILING = 0.0 GP % OR IP-IN PROGRESS</td> <td></td> </tr> <tr> <td colspan="2">IF BLANK GRADE NOT SUBMITTED:</td> </tr> </table>								A-EXCELLENT = 4.0 GP	N - AUDIT	B-GOOD = 3.0 GP	W - OFFICIAL WITHDRAWAL	C-AVERAGE = 2.0 GP	I - INCOMPLETE	D-UNSATIS = 1.0 GP	Z - NO CREDIT	F-FAILURE = 0.0 GP	P - CREDIT (NOT COMPUTED IN GPA)	Y-WITHDRAWAL FAILING = 0.0 GP % OR IP-IN PROGRESS		IF BLANK GRADE NOT SUBMITTED:		GRADE REPORT		
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S	4.000	P.A.	QPTS	CHRS	EXRS			[REDACTED]																
CUM	4.000		248.0	62.0	62.0			[REDACTED]																

Submitted by [REDACTED]



29 Jun 99

MEMORANDUM FOR AMN [REDACTED]

FROM: 77 BS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct involving minor disciplinary infractions. The authority for this action is 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 discharge action are the following:

a. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 14 September 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 1319, Life Support. You, who knew of your duties, at or near Ellsworth Air Force Base, South Dakota, on or about 14 September 1998, were derelict in the performance of those duties in that you willfully failed to refrain from consuming alcoholic beverages while under the state legal drinking age of 21, as it was your duty to do. You were, at or near Ellsworth Air Force Base, South Dakota, on or about 14 September 1998, as a result of wrongful overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of your duties. For these actions you were punished under Article 15 of the Uniform Code of Military Justice (UCMJ) on 28 Sep 98. You received a reduction to the grade of airman basic; restriction to Ellsworth Air Force Base, South Dakota for 30 days; and 30 days of extra duty. This Article 15 action established your Unfavorable Information File (UIF).

b. You did, at or near Ellsworth Air Force Base, South Dakota, on or about 1 October 1998 and on or about 2 October 1998, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Building 7504, Pride Hanger. For this action you were punished under Article 15 of the Uniform Code of Military Justice (UCMJ) on 22 Oct 98. You were restricted to Ellsworth Air Force Base, South Dakota for 30 days and received 30 days of extra duty. This Article 15 action was added to your Unfavorable Information File (UIF).

c. On 27 Jan 99, you did not shave prior to going to work. When you were confronted about the incident, you stated that you had shaved, which you knew at that time to be untrue. For this you received a Letter of Counseling (LOC) on 27 Jan 99.

d. On 8 Jun 99, you left your place of duty, Building 1012 (Life Support Section), without authority. For this you received a Letter of Reprimand (LOR) on 16 Jun 99.

3. This action could result in your separation with an under honorable conditions (general) discharge. I am recommending that your service be characterized as under honorable conditions (general). The commander exercising special court-martial jurisdiction or a higher authority will make the final

decision in this matter. 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 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 Captain [REDACTED] Area Defense Counsel, 5-2158, 1000 Ellsworth Street, Suite 1700 on 30 Jun 99 at 0730 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 1430 2 Jul 99, 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 matters 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 Exams Section of the Base Hospital at 0730 hours on 1 Jul 99 for the examination. This is a mandatory appointment and you must be in uniform.

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.

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

[REDACTED]
Lt Col, USAF
Commander

Attachments:

1. Supporting documents
 - a. Article 15/UIF - 28 Sep 98
 - b. Article 15/UIF - 22 Oct 98
 - c. LOC - 27 Jan 99
 - d. LOR - 16 Jun 99
2. Airman's Acknowledgment