

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████	GRADE AB	AFSN/SSAN ████████████████
--	--------------------	--------------------------------------

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

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

ISSUES A94.05	INDEX NUMBER A67.50	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 28 Jul 2004	CASE NUMBER FD-2004-00126			

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.

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: 7/28/2004
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	

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 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 does not contest his discharge. He merely states that he is a law abiding citizen, maintains a steady and successful job, and made a smooth transition back into civilian life. The records indicated the applicant received two Article 15s, five Letters of Reprimand, and one Record of Individual Counseling for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. 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, 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 9 Sep 02 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: 7 Nov 79. Enlmt Age: 19 6/12. Disch Age: 22 10/12. Educ: HS DIPL. AFQT: N/A. A-83, E-75, G-68, M-94. PAFSC: 2A353B - Tactical Aircraft Maintenance Journeyman. DAS: 7 May 02.

b. Prior Sv: (1) AFRes 13 May 99 - 3 Aug 99 (2 months 22 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Aug 99 for 6 yrs. Svd: 3 Yrs 1 Mo 6 Das, all AMS.

b. Grade Status: AB - 19 Aug 02 (Article 15, 19 Aug 02)
Amn - 23 Oct 01 (Article 15, 23 Oct 01)
A1C - 8 Oct 99

c. Time Lost: None.

d. Art 15's: (1) 19 Aug 02, Luke AFB, AZ - Article 92. You, who knew of your duties, on or about 2 Aug 02, were derelict in the performance of those duties in that you negligently failed to properly pin the aft cockpit seat on Aircraft 90-0793, as it was your duty to do. Reduction to AB. (No appeal) (No mitigation)

(2) 23 Oct 01, Spangdahlem AB, Germany - Article 91. You, on or about 11 Aug 01, were disrespectful in language toward MSgt [REDACTED], a senior noncommissioned officer, then known by you to be a senior noncommissioned officer, who was then in the execution of his office by saying to him "This is bullshit, fuck you guys; you can't tell me what to fucking do," or words to that effect. You, having received a lawful order from SSgt [REDACTED], a noncommissioned officer, then known by you to be a noncommissioned officer, to remain at the scene of an incident, an order which it was your duty to obey, did, on or about 11 Aug 01, willfully disobey the same. Reduction to Airman, and 15 days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: (Examiner's Note: Additional infractions listed

below were taken from the Legal Review. Actual documents are missing from file)

- LOR, 02 AUG 02 - Failure to maintain dorm room within standards.
- LOR, 26 JUN 02 - Failure to perform assigned tasks.
- RIC, 07 JUN 02 - Failure to go.
- LOR, 15 MAY 02 - Failure to obey an order.
- LOR, 15 MAY 02 - Failure to go.
- LOR, 15 DEC 00 - Failure to maintain proper military standards regarding wear of body jewelry while in uniform.
- LOR, 15 DEC 00 - Failure to maintain proper military standards regarding wear of body jewelry while in uniform.

f. CM: None.

g. Record of SV: 4 Aug 99 - 3 Apr 01 Spangdahlem AB 5 (Initial)
4 Apr 01 - 3 Apr 02 Spangdahlem AB 3 (Annual)REF

h. Awards & Decs: AFTR, SAEMR, NDSM.

i. Stmt of Sv: TMS: (3) Yrs (3) Mos (28) Das
TAMS: (3) Yrs (1) Mos (6) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 30 Mar 04.
(Change Discharge to Honorable)

Issue 1: Since my discharge on September 09, 2002 I have remained a law abiding citizen, I have maintained a steady and successful job, and have made a smooth transition back into civilian life. I am planning to attend college this semester to finish my Associates degree. I have just recently purchased my first house, and I am moving up in my career. I ask that you please review my discharge and upgrade it to an Honorable.

ATCH

1. Character Reference.
2. Police Report.

17MAY04/ia



DEPARTMENT OF THE AIR FORCE

56th Fighter Wing (AETC)
Luke Air Force Base Arizona

FD 2004-00126

SEP 3 2002

MEMORANDUM FOR 56 FW/CC

FROM: 56 FW/JA

SUBJECT: Legal Review of Administrative Discharge – AB [REDACTED]
[REDACTED] 63 FS

1. ACTION: This case is before you for review and action in your capacity as the separation authority. The 63 FS/CC recommends the Respondent be separated from the United States Air Force with a general discharge without probation and rehabilitation pursuant to AFI 36-3208, paragraph 5.50.2, Pattern of Misconduct. I concur.

2. BACKGROUND: The Respondent is 22 years old and has served approximately 3 years of an initial 6 year enlistment. His AQE scores are: Admin - 83; Elec - 75; Gen - 68; and Mech - 94. The Respondent's awards and decorations include the National Defense Service Medal, Small Arms Expert Rifle Ribbon and Air Force Training Ribbon. The Respondent has received two EPRs:

4 Aug 99 – 3 Apr 01	4
4 Apr 01 – 3 Apr 02	3 Referral

3. FACTS: The following actions from the Respondent's current enlistment establish the basis for discharge under paragraph 5.50.2:

a. On 14 Dec 00, the Respondent failed to maintain proper military standards regarding wear of body jewelry while in uniform. For this misconduct he received a Letter of Reprimand, dated 15 Dec 00. For this action an Unfavorable Information File (UIF) was established.

b. On 11 Aug 01, the Respondent was disrespectful to a senior noncommissioned officer and failed to obey a lawful order given to him by a noncommissioned officer. For this misconduct he received an Article 15, dated 23 Oct 01. His punishment included reduction to E-2 and 15 days extra duty. This action was filed in his existing UIF.

c. On 7 May 02, the Respondent failed to obey an order given to him by a noncommissioned officer. For this misconduct he received a Letter of Reprimand, dated 15 May 02.

d. On 15 May 02, the Respondent failed to go to his appointed place of duty at the prescribed time. For this misconduct he received a Letter of Reprimand, dated 15 May 02. This action was filed in his existing UIF.

—Attorney Work Product—

This work product has been prepared by an attorney in the course of performing legal duties on behalf of a client, and is not to be provided to anyone outside the Air Force without approval of the originator or higher authority. It is exempt from disclosure under the Freedom of Information Act under 5 U.S.C. §552(b)(5) and protected from release under FRCP 26(b)(3).

e. On 7 Jun 02, the Respondent failed to go to his appointed place of duty at the prescribed time. For this misconduct he received a Record of Individual Counseling, dated 7 Jun 02.

f. On 18 Jun 02, the Respondent failed to perform his assigned duties. For this misconduct he received a Letter of Reprimand, dated 26 Jun 02. This action was filed in his existing UIF and he was placed on the control roster.

g. On 1 Aug 02, the Respondent failed to maintain his dormitory room within standards. For this misconduct he received a Letter of Reprimand, dated 2 Aug 02. This action was filed in his existing UIF.

h. On 2 Aug 02, the Respondent failed to perform his assigned duties. For this misconduct he received an Article 15, dated 19 Aug 02. His punishment included reduction to E-1. This action was filed in his existing UIF.

4. RESPONDENT'S MATTERS: The Respondent has waived his right to consult with military defense counsel and to submit matters regarding this discharge action.

5. CHARACTERIZATION OF DISCHARGE: The Respondent's commander recommends a general service characterization for AB [REDACTED] term of service. A general (under honorable conditions) characterization of service is appropriate if the airman's service has been honest and faithful, and if significant negative aspects of the airman's conduct or duty performance outweigh the positive aspects of his record. During the first 3 years of his current enlistment, AB [REDACTED] has received one Record of Individual Counseling, five Letters of Reprimand and two Article 15s. The Respondent's conduct has been prejudicial to good order and discipline and has detrimentally affected mission accomplishment. The negative aspects outweigh the positive aspects of his service record and a general discharge is appropriate.

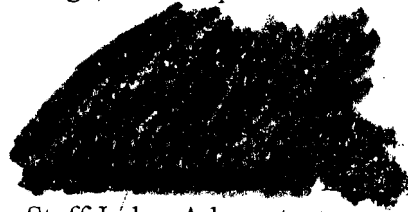
6. PROBATION AND REHABILITATION (P&R): In accordance with AFI 36-3208, Chapter 7, P&R would be inappropriate in this case and is clearly contrary to the best interests of good order and discipline. Despite the numerous administrative actions taken to rehabilitate him, the Respondent is either unable or unwilling to change his pattern of behavior and conform to Air Force standards. Therefore, it is not reasonable to expect further P&R would be productive.

7. LEGAL SUFFICIENCY: There is a sufficient factual basis to support this discharge. This file has been prepared in substantial compliance with the provisions of AFI 36-3208. The Respondent has been notified of this discharge, was given the opportunity to meet with the military defense counsel and to present matters for your consideration. For these reasons, we find this case file legally sufficient.

8. OPTIONS: As the separation authority, you have the following options:

a. Retain the Respondent; or

- b. Separate the Respondent with a general discharge, with or without probation and rehabilitation; or
 - c. Forward the case to 19 AF/CC recommending the Respondent receive an honorable discharge, with or without probation and rehabilitation; or
 - d. If you feel an under other than honorable conditions discharge is appropriate, return the package to the squadron for processing in accordance with administrative discharge procedures.
9. RECOMMENDATION: Based on the foregoing, I recommend you separate the Respondent from the United States Air Force with a general discharge, without probation and rehabilitation.



USAF

Staff Judge Advocate