

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
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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 A93.23	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 04 Aug 2004	CASE NUMBER FD-2004-00145	
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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]

INDORSMENT	DATE 8/4/2004
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

FD2004-00145

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

The applicant was offered a personal appearance before the Discharge Review Board 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.

Issues. Applicant was discharged for minor disciplinary infractions. He had four Letters of Reprimand, a Letter of Counseling, an Article 15, and a vacation of suspended punishment. His misconduct included failure to go, sleeping on duty, being unavailable for on-call duty, failing to secure government property, and twice failing dormitory inspections. These incidents of misconduct occurred during the period May 1998 to February 2000. Member was also diagnosed as having a dysthymic disorder, personality disorder, and an adjustment disorder with depressed mood, and was a continuing care patient in the Mental Health Clinic from January 1998 to September 1999 when he last came to the clinic. He also had a period of inpatient care in June 1998 following a suicidal gesture, and also showed signs of alcohol abuse. These mental health issues did not rise to the level of a medical evaluation board however. Additionally, member underwent two separate sleep studies to determine if he had a sleep disorder, but the results showed no pathologic hypersomnolence or evidence of sleep apnea. At the time of the discharge, after consulting counsel, member submitted a statement in his own behalf asserting he suffered from Seasonal Affective Disorder (SAD), which predicated many of his instances of misconduct, and requested to be allowed to reach the end of his term of service. Applicant brings the same contention now. Thorough review of applicant's extensive service medical record disclosed diagnosis for SAD, only a reference to a seasonal component of his dysthymia, therefore the Board found this contention without merit. Although the Board recognizes member's mental health diagnoses may have contributed to his poor performance, judgment and the inability to follow rules and regulations, the Board noted that he knew right from wrong, was still responsible for his actions of misconduct, and should be held accountable for those. He was counseled repeatedly and given numerous opportunities to improve his behavior but failed to respond to those rehabilitative efforts. Furthermore, existence of an adjustment or personality disorder does not bar separation for any other authorized reason, such as misconduct, if that reason is more appropriate; a discharge for an adjustment or personality disorder is not appropriate if the airman's record supports discharge for misconduct. No inequity or impropriety was found in this discharge in the course of the records review.

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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Academy, CO on 30 Mar 00 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Feb 75. Enlmt Age: 21 8/12. Disch Age: 25 1/12. Educ: HS DIPL. AFQT: N/A. A-94, E-97, G-96, M-97. PAFSC: 2C051 - Communications-Computer Systems Operations Journeyman. DAS: 30 Aug 97.

b. Prior Sv: (1) AFRes 13 Nov 96 - 15 Apr 97 (5 months 3 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 16 Apr 97 for 4 yrs. Svd: 2 Yrs 11 Mo 15 Das, all AMS.

b. Grade Status: Amn - 15 Feb 00 (Vacation of Article 15, 15 Feb 00)
A1C - 16 Sep 98
Amn - Unknown

c. Time Lost: None.

d. Art 15's: (1) 15 Feb 00, Vacation, USAF Academy, CO - Article 92. You, who knew or should have known of your duties, on or about 7 Feb 00, were derelict in the performance of your duties, in that you willfully failed to maintain your room in accordance with USAFA Dorm Instructions, as it was your duty to do. Reduction to Airman. (No appeal) (No mitigation)

(2) 25 Aug 99, USAF Academy, CO - Article 92. You, who knew, or should have known of your duties, on or about 13 Aug 99, were derelict in the performance of those duties in that you willfully failed to pass an inspection of your dormitory room, as it was your duty to do. You, who knew of your duties, on or about 13 Aug 99, were derelict in the performance of those duties in that you willfully failed to maintain Air Force Standards by not shaving, as it was your duty to do. Article 86. You, did, on or about 13 Aug 99, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to Airman. Forfeiture of \$100.00 pay per month for 2 months. (No appeal) (No mitigation)

- e. Additional: LOR, 17 AUG 99 - Disobeying an order.
 LOR, 27 MAY 98 - Failure to obey orders.
 LOC, 27 MAY 98 - Substandard duty performance.
 LOR, 26 MAY 98 - Failure to prepare for duty, and not
 available for duty.
 LOR, 08 MAY 98 - Falling asleep on duty.
- f. CM: None.
- g. Record of SV: 16 Apr 97 - 19 Jan 99 USAF Academy 3 (Initial)
 20 Jan 99 - 19 Jan 00 USAF Academy 3 (Annual)
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (3) Yrs (4) Mos (18) Das
 TAMS: (2) Yrs (11) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 15 Apr 04.
 (Change Discharge to Honorable)

Issue 1: The basis of my discharge from the United States Air Force was that by failing to have my dorm room ready for inspection, I did not follow a direct order deliberately and should be discharged as per previous punishment. I would state that at that time, I was suffering from Seasonal Adjustment Disorder which caused me several problems, both personally and professionally. I was at that time seeking treatment for my condition, and was doing all I could to follow orders as I submitted with my Article 15 paperwork. I had also submitted statements from fellow Air Force members showing that I had improved my work performance and should be retained in the military as I desired. I also explained to my commander that I wanted to stay in the military and was willing to do anything to do so. Unfortunately, I was experiencing severe depression at the time and was having trouble staying awake outside of the work place; although I was no longer falling asleep at work. This is why I was unable to complete my room and have it ready for inspection. It is my hope to have my discharge upgraded so that I may pursue a government job and secure the security clearance necessary for the position I desire. While I did have problems while serving on active duty, I was doing everything possible to become the Airman the government expected me to be and felt that I was well on my way before being discharged. It is my hope that you do as well.

ATCH
 None.

20MAY04/ia

FD 2004-00145

DEPARTMENT OF THE AIR FORCE
10th COMMUNICATIONS SQUADRON
UNITED STATES AIR FORCE ACADEMY COLORADO

MEMORANDUM FOR [REDACTED]

10 MAR 2000

FROM: 10 CS/CC

SUBJECT: Notification of Administrative Discharge Action Under AFI 36-3208

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 discharge may be described as honorable, general under honorable conditions or under other than honorable conditions. I am recommending that your service be characterized as general under honorable conditions.

2. My reasons for this action are:

a. On 7 May 98, you fell asleep while on duty, specifically during an office meeting. As a result, you received a letter of reprimand, dated 8 May 98. (Atch 1)

b. On 23 May 98, you failed to prepare for on-call duty. As a result, you received a letter of reprimand, dated 26 May 98. (Atch 2)

c. On 23 May 98, you failed to secure government property. As a result, you received a letter of counseling, dated 27 May 98. (Atch 3)

d. On 27 May 98, you failed to inform your supervisor of your whereabouts during the duty day, as you were instructed to do. As a result, you received a letter of reprimand, dated 27 May 98. (Atch 4)

e. On 17 Aug 99, you failed to report to sick call as directed. As a result, you received a letter of reprimand, dated 17 Aug 99. (Atch 5)

f. On 13 Aug 99, you failed a dormitory inspection, failed to maintain grooming standards by not shaving, and failed to go to your appointed place of duty. As a result, you received nonjudicial punishment, dated 25 Aug 99. (Atch 6)

g. On 7 Feb 00, you failed another dormitory inspection. As a result, your suspended reduction to the grade of Airman was vacated on 15 Feb 00. (Atch 7)

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a higher

authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

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 [REDACTED] or [REDACTED] of the Area Defense Counsel on 10 MARCH 2000 at 1000 hours in Harmon Hall, Room 323. 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 0830 hours on 15 MAR 2000 unless you request and receive an extension for good cause shown. I will send these statements to the separation authority.

5. If you fail to consult counsel or 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 Physical Examinations in the Cadet Clinic, Station 22, at ~~0730~~ on 15 MAR 2000 2000 with your medical records. 10:15 [REDACTED]

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 Personnel and Administrative Services Section. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]

[REDACTED], USAF
Commander

Attachments:

1. Letter or Reprimand, dated 8 May 98
2. Letter of Reprimand, dated 26 May 98
3. Letter of Counseling, dated 27 May 98
4. Letter of Reprimand, dated 27 May 98
5. Letter or Reprimand, dated 17 Aug 99
6. Article 15 Punishment, dated 25 Aug 99
7. Vacation of Article 15 Punishment, dated 15 Feb 00