

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 15px;"></div>				GRADE AMN		AFSN/SSAN <div style="background-color: black; width: 100%; height: 15px;"></div>		
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				
<div style="border: 1px dashed black; height: 150px; width: 100%;"></div>				HON	GEN	UOTHC	OTHER	DENY
								X
								X
								X
								X
								X
ISSUES A95.00		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 10 Aug 2004		CASE NUMBER FD-2004-00173						

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: 8/10/2004

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-2004-00173

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.

ISSUE: The applicant submitted no issues and requested that the review be completed based on the available service record. The Board reviewed the entire record and found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge. The records indicated applicant received an Article 15 that was later vacated, 4 Letters of Reprimand and 2 Letters of Counseling ranging from failure to go, lying and failure to obey orders. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the disciplinary infractions were a significant departure from the conduct expected of all military members. The Board found no evidence of impropriety or inequity in this case on which to base an upgrade of discharge.

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]
(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr F.E. Warren AFB, WY on 10 Apr 03 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 Jun 82. Enlmt Age: 18 5/12. Disch Age: 20 9/12. Educ: HS DIPL. AFQT: N/A. A-61, E-60, G-39, M-44. PAFSC: 2M032 - Missile and Space Systems Maintenance Apprentice. DAS: 15 Dec 01.

b. Prior Sv: (1) AFRes 29 Nov 00 - 18 Jun 01 (6 months 21 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Jun 01 for 6 yrs. Svd: 1 Yrs 9 Mo 23 Das, all AMS.

b. Grade Status: Amn - 17 Jan 03 (Article 15, 17 Jan 03)
A1C - 15 Nov 01

c. Time Lost: None.

d. Art 15's: (1) 5 Mar 03, Vacation, F.E. Warren AFB, WY - Article 134. You, having been restricted to the limits of F.E. Warren AFB, WY, by a person authorized to do so, did, at or near F.E. Warren AFB, WY, between on or about 14 Feb 03 and on or about 15 Feb 03, break said restriction. Forfeiture of \$645.00 pay. (No appeal) (No mitigation)

(2) 17 Jan 03, F.E. Warren AFB, WY - Article 86. You did, on or about 10 Dec 02, 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 19 Dec 02, were derelict in the performance of those duties in that you willfully failed to refrain from sleeping while working in Bay Six located in Building 1501, as it was your duty to do. Reduction to Airman. Suspended forfeiture of \$645.00 pay. Thirty days restriction. (No appeal) (No mitigation)

e. Additional: LOR, 09 DEC 02 - Stealing and making a false official statement.

LOR, 07 NOV 02 - Failure to go and body piercing.

LOR, 22 OCT 02 - Lying.

LOC, 23 SEP 02 - Late for training.

LOR, 13 MAY 02 - Failure to obey orders and dereliction of

duty.

LOC, 26 MAR 01 - Failure to obey instructions.

f. CM: None.

g. Record of SV: None.

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

i. Stmt of Sv: TMS: (2) Yrs (4) Mos (13) Das
TAMS: (1) Yrs (9) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 24 Apr 04.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

None.

15JUN04/ia



DEPARTMENT OF THE AIR FORCE
90TH SPACE WING (AFSPC)

FD 2004-00173

7 APR 03

27 MAR 2003

MEMORANDUM FOR Amn [REDACTED]

FROM: 90 MMXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a pattern of misconduct. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. 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, at or near Francis E. Warren Air Force Base, Wyoming, on or about 25 Mar 02, did fail to obey instructions given to you by SrA [REDACTED] to wit: to change from your PT clothes; report to your duty section, and remain at your duty section until after the handling team returned from their dispatch. For this misconduct you received a Letter of Counseling (LOC), dated 26 Mar 02.

b. You, at or near Francis E. Warren Air Force Base, Wyoming, on or about 9 May 02, did fail to obey instructions given to you by TSgt [REDACTED] to put a lid on a can of paint. It was discovered on 10 May 02, that you did not follow this instruction. For this misconduct you received a Letter of Reprimand (LOR), dated 13 May 02, and,

c. You, at or near Francis E. Warren Air Force Base, Wyoming, on or about 10 May 02, did fail to obey instructions given to you by TSgt [REDACTED] to move the floor mats to the east side of the building and tag the hand lift trucks with unserviceable tags. For this misconduct you received an LOR, dated 13 May 02.

d. You, at or near Francis E. Warren Air Force Base, Wyoming, on or about 11 Sep 02, did fail to go to your scheduled place of duty at the appointed time, to wit: training. For this misconduct you received an LOC, dated 23 Sep 02.

e. You, at or near Francis E. Warren Air Force Base, Wyoming, on or about 17 Oct 02, did make a false official statement to your trainers and team chiefs, to wit: "you were placed on quarters", which you knew was a false statement. For this misconduct you received an LOR, dated 22 Oct 02.

f. An investigation disclosed that on or about 21 Oct 02, at or near building #485, Francis E. Warren Air Force Base, Wyoming, you did fail to go at the time prescribed to your appointed place of duty. For this misconduct you received an LOR, dated 7 Nov 02, and

g. An investigation disclosed that on or about 29 Oct 02, at or near Francis E. Warren Air Force Base, Wyoming, that you did violate a lawful general regulation, by wearing a tongue stud. For this violation MSgt [REDACTED] verbally counseled you on body piercing restrictions. For this misconduct you received an LOR, dated 7 Nov 02, and

h. On or about 31 Oct 02, at or near Francis E. Warren Air Force Base, Wyoming, you were seen by TSgt [REDACTED] again wearing a tongue stud. For this misconduct you received an LOR, dated 7 Nov 02.

i. An investigation has disclosed that at or near Francis E. Warren Air Force Base, Wyoming, Bldg 1501, Peacekeeper Flight, on or about 3 Dec 02, you stole a soda and a corn dog from the section snack bar valued at \$1.00. For this misconduct you received a Letter of Reprimand (LOR), dated 9 Dec 02, and

j. During an investigation, at or near Francis E. Warren Air Force Base, Wyoming, on or about 3 Dec 02, it was disclosed that you made a false official statement, knowing that it was a false official statement, to wit: you told your supervisor you paid for the snack bar items. For this misconduct you received a LOR, dated 9 Dec 02.

k. You did, at Francis E. Warren Air Force Base, Wyoming, on or about 10 Dec 02, without authority, fail to go at the time prescribed to you appointed place of duty, to wit: Bldg 1501 at 0600 hours. For violation of Article 86 of the UCMJ, you received an Article 15, dated 17 Jan 03.

l. You, who knew of your duties at or near Francis E. Warren Air Force Base, Wyoming, on or about 10 Dec 02, were derelict in the performance of those duties in that you willfully failed to refrain from sleeping while working in Bay Six located in Bldg 1501, as it was your duty to do. For violation of Article 92 of the UCMJ, you received an Article 15, dated 17 Jan 03.

m. You, having been restricted to the limits of Francis E. Warren Air Force Base, Wyoming, by a person authorized to do so, did, at or near Francis E. Warren Air Force Base, Wyoming, between on or about 14 Feb 03 and on or about 15 Feb 03, break said restriction. For violation of Article 134 of the UCMJ, you received a Vacation Action, dated 5 Mar 03.

3. 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 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 any special pay, bonus, or education assistance funds may be subject to recoupment.

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 with an attorney at the Area Defense Counsel's Office at Building 292, extension 3248, on 27 Mar 03 at 10:45. 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 within three workdays after receipt of the notification memorandum, that date being 1 Apr 03, unless you request and receive an extension for good cause shown. I will send any statements you submit to the separation authority for his consideration.

6. If you fail to consult counsel or to submit statements on 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 Family Practice at 0730 hours, on 2 Apr 03 for the 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 your Command Support Staff office.

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



Lt Col, USAF
Commander, 90th Missile Maintenance Squadron

Attachments:

1. LOC, dated 26 Mar 02
2. LOR, dated 13 May 02
3. LOC, dated 23 Sep 02
4. LOR, dated 22 Oct 02
5. LOR, dated 7 Nov 02
6. LOR, dated 9 Dec 02
7. Article 15, dated 22 Jan 03
8. Vacation Action, dated 5 Mar 03
9. Other derogatory data not listed in the Notification Memorandum: Unfavorable Information File Summary and Armed Forces Traffic Ticket, dated 28 Jun 02