

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██			GRADE AB		AFSN/SSAN ████████████████████				
TYPE GEN		PERSONAL APPEARANCE			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	UOTHC	OTHER	DENY
									X
									X
									X
									X
ISSUES A94.56 A93.21		INDEX NUMBER A93.21 A94.56		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-2004-00177							

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Records reviewed 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: 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-2004-00177

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

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but was unable to exercise this right at this time. He requested that the DRB render a decision based on a review of his records.

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 the evidence of record does not substantiate an inequity or impropriety that would justify a change of discharge.

ISSUE:

Issue 1. Applicant contends discharge was improper because medication he was prescribed by the Air Force contributed to his confusion and difficulty reporting for duty on time. His medical records were thoroughly reviewed, and the DRB determined that his numerous instances of varied misconduct were not attributable to the medications he had been prescribed. It was evident from the record that the applicant's supervisors and chain of command repeatedly counseled the applicant regarding his misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior.

Issue 2. Applicant contends discharge was inequitable because the circumstances involving the vandalism and larceny did not warrant the discharge. The applicant argues that the exigencies of the tornado justified his vandalism of the vending machine. Moreover his subsequent actions of reporting the vandalism and voluntarily undertaking to repay the damage should excuse his conduct. Based on the information available in the applicant's records, the DRB disagrees that these facts warrant elimination of this incident as a basis for the discharge.

Issue 3. Applicant submitted documentation of the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, letters of recommendation and other accomplishments. They found the repetitiveness of his misconduct offset any positive aspects of the applicant's duty performance.

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, 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 Tinker AFB, OK on 2 Jul 99 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 Nov 77. Enlmt Age: 18 2/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-74, E-66, G-46, M-55. PAFSC: 2A551L - Aerospace Maintenance Journeyman. DAS: 1 Oct 96.

b. Prior Sv: (1) AFRes 9 Feb 96 - 18 Jun 96 (4 months 10 days)(Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 19 Jun 96 for 4 yrs. Svd: 3 Yrs 0 Mo 14 Das, all AMS.

b. Grade Status: AB - 27 May 99 (Article 15, 27 May 99)
Amn - 08 Apr 99 (Vacation of Article 15, 8 Apr 98)
A1C - 19 Oct 97
AMN - 19 Dec 96

c. Time Lost: None.

d. Art 15's: (1) 27 May 99, Tinker AFB, OK - Article 109. You, did, on or about 3 May 99, willfully and wrongfully damage a vending machine, the amount of the said damage being in the sum of more than \$100.00, the property of Great Plains Coca-Cola Bottling Company. Article 121. You, did, on or about 3 May 99, steal snack food items of a value less than \$100.00, the property of Great Plains Coca-Cola Bottling Company. Reduction to AB. (Appeal/Denied) (No mitigation)

(2) 12 Oct 98, Vacation, Prince Sultan AB, Saudi Arabia - Article 134. You, having been placed on medical quarters and restricted to the limits of your tent, except for the opportunity to go to the dining facility, restrooms, and outside your tent for the purpose of smoking, by a person authorized to do so, did, on or about 1 Oct 98, break said restriction. Reduction to Airman. (No appeal) (No mitigation)

(3) 8 Apr 98, Tinker AFB, OK - Article 86. You did, on or about 23 Feb 98, without authority, fail to go at the time prescribed to your appointed place of duty.

Suspended reduction to Airman, and 14 days extra duty.
(No appeal) (No mitigation)

- e. Additional: LOR, 12 OCT 98 - Breaking restriction.
LOR, 27 JAN 98 - Late for duty.
RIC, 15 JAN 98 - Late for duty.
RIC, 15 DEC 97 - Late for duty.
RIC, 05 DEC 97 - Late for duty.
LOR, 08 SEP 97 - Late for duty twice, reporting for duty wearing civilian clothes, leaving for lunch without authority, and sleeping during study time.
RIC, 04 SEP 97 - Late for duty.
RIC, 30 JUL 97 - Late for duty.
RIC, 24 JUL 97 - Late for duty.
- f. CM: None.
- g. Record of SV: 19 Jun 96 - 18 Feb 98 Tinker AFB 3 (Initial)
19 Feb 98 - 18 Feb 99 Tinker AFB 2 (Annual)REF
- h. Awards & Decs: AFTR, AFOUA, AFEM, SAEMR.
- i. Stmt of Sv: TMS: (3) Yrs (4) Mos (24) Das
TAMS: (3) Yrs (0) Mos (14) Das

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

Issue 1: I believe I was discharged inappropriately because during the times that I was late or confused I was under the prescribe (sic) medication given to me by the military (Flexirial, Naprosen).

Issue 2: The incident concerning the vending machine was a bad decision. I thought I was helping other in a time of need and I feel that of the Coca-Cola Co. forgave me then the military should not treat my actions any different.

ATCH

1. DD Form 214 (Member-4).
2. Four Character References.

17JUN04/ia



FD 2004-00177

DEPARTMENT OF THE AIR FORCE
552d LOGISTICS GROUP (ACC)
TINKER AIR FORCE BASE, OKLAHOMA

MEMORANDUM FOR AB [REDACTED]

FROM: 552 AGS/CC
Tinker AFB OK 73145

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50.2, Conduct Prejudicial to Good Order and Discipline. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reasons for this action are:
 - a. On 24 Jul 97, you were one hour and twenty minutes late reporting for duty. As a result, you received a Record of Individual Counseling (RIC), dated 24 Jul 97. See Atch 1.
 - b. On 29 Jul 97, you did not report for duty as prescribed. As a result, you received a Record of Individual Counseling, dated 30 Jul 97. See Atch 2.
 - c. On 4 Sep 97, you did not report for duty at the prescribed time. As a result, you received a Record of Individual Counseling, dated 4 Sep 97. See Atch 3.
 - d. On 5 Sep 97, you were instructed to work on weekend duty for additional training on your CDC. You reported late for duty on both of those days. You also failed to report in proper uniform on Saturday of that weekend. You did not seek duty supervisor approval before leaving for lunch and you were also observed sleeping on numerous occasions during that weekend. As a result, you received a Letter of Reprimand (LOR), dated 8 Sep 97. See Atch 4.
 - e. During the week of 1 - 5 Dec 97, you were late for duty on Monday and Friday of that week. As a result, you received a Record of Individual Counseling, dated 5 Dec 97. See Atch 5.
 - f. On 12 Dec 97, you failed to report that you were going to be late in reporting for duty because of vehicle breakdown. As a result, you received a Record of Individual Counseling, dated 15 Dec 97. See Atch 6.
 - g. On 15 Jan 98, you were one-half hour late in reporting for duty. As a result, you received a Record of Individual Counseling, dated 15 Jan 98. See Atch 7.

h. On 26 Jan 98, you were five minutes late in reporting for duty. As a result, you received a Letter of Reprimand, dated 27 Jan 98. See Atch 8.

i. On 23 Feb 98, you failed to go at the prescribed time to your place of duty, Bldg 224, Tinker AFB OK. As a result, you received an Article 15, dated 8 Apr 98. Punishment was reduction to the grade of airman (suspended until 7 Oct 98), and 14 days extra duty. See Atch 9.

j. On 1 Oct 98, you were placed on 24-hour quarters because of a knee injury. On 1 Oct 98, you were observed working out at a gym. You violated Article 134, Breaking Restriction. As a result, you received a Record of Proceedings of Vacation of Suspended Nonjudicial Punishment. You were reduced to the grade of airman. You also received a Letter of Reprimand, dated 12 Oct 98. See Atch 10.

k. On 3 May 99, in the aftermath of the tornado that struck Tinker AFB, you willfully and wrongfully damaged a vending machine belonging to Great Plains Coca-Cola Bottling Company and stole snack food items of a value less than \$100. Said damage was in the amount of more than \$100. As a result, you received an Article 15, dated 25 May 99. Punishment was reduction to the grade of airman basic, effective 27 May 99. See Atch 11.

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.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made tentative arrangements for you to consult [REDACTED] at Bldg 452, Tinker AFB OK on 14 June 1999, at 1400 hours. You may want to call [REDACTED] office to verify that appointment time or if is necessary for you to change this appointment time. [REDACTED] telephone number is 405/739-7713. 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 17 June 1999, 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 were scheduled for a medical examination on 15 Jun 99, and you should have reported to the Tinker AFB Hospital, Physical Exam Section, on that date for the examination.

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 orderly room.

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



Attachments:

1. RIC, dtd 24 Jul 97
2. RIC, dtd 30 Jul 97
3. RIC, dtd 4 Sep 97
4. LOR, dtd 8 Sep 97
5. RIC, dtd 5 Dec 97
6. RIC, dtd 15 Dec 97
7. RIC, dtd 15 Jan 98
8. LOR, dtd 27 Jan 98
9. Art 15, dtd 8 Apr 98
10. Vacation of Nonjudicial Punishment
and LOR, dtd 12 Oct 98
11. Art 15, dtd 25 May 99
12. Acknowledgment Ltr