

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 YES No X		NAME OF COUNSEL AND OR ORGANIZATION			ADDRESS AND OR ORGANIZATION OF COUNSEL																																	
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ISSUES A93.23		INDEX NUMBER A67.10			<div style="text-align: center; background-color: #cccccc;">EXHIBITS SUBMITTED TO THE BOARD</div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 5%;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>				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																
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HEARING DATE 15 Sep 2004		CASE NUMBER FD-2004-00217																																				
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE																																						
<p>Case heard at Washington, D.C.</p> <p>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.</p> <div style="border: 1px dashed black; height: 50px; width: 100%; margin-top: 20px;"></div>																																						
<div style="text-align: center; background-color: #cccccc;">INDORSEMENT</div> <div style="height: 30px; vertical-align: bottom;"> </div>				DATE: 9/17/2004																																		
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-2004-00217

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.

ISSUE: Applicant was discharged for misconduct, minor disciplinary infractions. He had two Articles 15, three Letters of Reprimand, four Records of Individual Counseling, and a verbal counseling. His misconduct included seven incidents of failure to go, making a false official statement regarding his sexual relationship with a female airman, two instances of dereliction of duty, financial irresponsibility, and a dress and appearance violation. At the time of the discharge, member consulted counsel and submitted a statement in his own behalf requesting an honorable discharge. Applicant now contends he was suffering from stress. While it is understandable that a member experiencing personal problems has additional stress, member has not provided evidence as to what his problems or resultant stressors were or how they were unique. Furthermore, there is little evidence he sought help from available agencies such as the Chaplain, family support center, or his chain of command; there is only one note in his medical record regarding a visit to the mental health clinic due to occupational stressors. In view of the unit's many actions, member had ample opportunities to come within expected standards of conduct. He was either unable or unwilling to correct his behavior. The Board could not find any mitigation or extenuation to warrant an upgrade, and the records review disclosed no inequity or impropriety.

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 McChord AFB, WA on 25 May 01 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 May 80. Enlmt Age: 18 9/12. Disch Age: 21 0/12. Educ: HS DIPL. AFQT: N/A. A-34, E-48, G-70, M-45. PAFSC: 3E731 - Fire Protection Apprentice. DAS: 23 Sep 99.

b. Prior Sv: (1) AFRes 23 Feb 99 - 30 Mar 99 (1 month 8 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 31 Mar 99 for 4 yrs. Svd: 2 Yrs 1 Mo 25 Das, all AMS.

b. Grade Status: AMN - 29 Mar 01 (Article 15, 29 Mar 01)
A1C - 30 Jul 00
AMN - 30 Sep 99

c. Time Lost: None.

d. Art 15's: (1) 29 Mar 01, Aviano AB, Italy - Article 86. You did, on or about 14 Mar 01, 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 16 Mar 01, were derelict in the performance of those duties in that you negligently failed to report for roll call in uniform and negligently failed to shave prior to duty, as it was your duty to do. Reduction to Airman, and a reprimand. (No appeal) (No mitigation)

(2) 23 Jan 01, Aviano AB, Italy - Article 107. You did, on or about 15 August 00, with intent to deceive, make to [REDACTED] an official statement, to wit: that you did not have sexual contact with [REDACTED], which statement was totally false and was then known by you to be so false. Forfeiture of \$200.00 pay per month for 2 months, 15 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: RIC, 21 MAR 01 - Dereliction of duty.
LOR, 14 MAR 01 - Late for work.
VBC, 01 FEB 00 - Financial irresponsibility.
LOR, 05 JAN 01 - Late for work on two occasions.

LOR, 21 OCT 00 - Late for work.
RIC, 03 JUL 00 - Late for work.
RIC, 24 APR 00 - Dereliction of duty.
RIC, 23 FEB 00 - Late for work.

f. CM: None.

g. Record of SV: 31 Mar 99 - 29 Nov 00 Aviano AB 3 (Initial)

h. Awards & Decs: AFTR, NATOM, AFOSLTR.

i. Stmt of Sv: TMS: (2) Yrs (3) Mos (3) Das
TAMS: (2) Yrs (1) Mos (25) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 10 Jun 04
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 149

21JUL04/ia



FD 2004-00217

DEPARTMENT OF THE AIR FORCE
31ST FIGHTER WING (USAF)

MEMORANDUM FOR [REDACTED]

FROM: 31 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, para. 5.49. If my recommendation is approved, your service will be characterized as honorable or as under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are as follows:
 - a. On or about 19 Mar 01, you were derelict in the performance of your duties in that you negligently failed to clean the area assigned to you in your morning detail. For this offense, you received a Record of Individual Counseling (ROIC) on 21 Mar 01;
 - b. On or about 16 Mar 01, you were derelict in the performance of your duties in that you negligently failed to shave before reporting for duty and you negligently failed to report for roll call in uniform;
 - c. On or about 14 Mar 01, you failed to go at the prescribed time to your appointed place of duty. For this offense and for the offense listed in para. 2b, I imposed nonjudicial punishment under Article 15, UCMJ, on 29 Mar 01 consisting of: a reduction to the grade of airman and a reprimand;
 - d. On or about 10 Mar 01, you failed to go at the prescribed time to your appointed place of duty. For this offense, you received a Letter of Reprimand (LOR) on 14 Mar 01;
 - e. On or about 22 Jan 01 your military STAR account became past due. For this offense, you were verbally counseled by the first sergeant on or about 1 Feb 01;
 - f. On or about 1 Jan 01, you failed to go at the prescribed time to your appointed place of duty;
 - g. On or about 30 Dec 00, you failed to go at the prescribed time to your appointed place of duty. For this offense and the offense listed in para. 2f, you received an LOR on 5 Jan 01;
 - h. On or about 21 Oct 00, you failed to go at the prescribed time to your appointed place of duty. For this offense, you received an LOR on 21 Oct 00
 - i. On or about 15 Aug 00, you made a false official statement to an AFOSI investigator stating that you did not have sexual contact with a certain female airman. For this offense, I imposed nonjudicial punishment under Article 15, UCMJ, on 23 Jan 01 consisting of: forfeiture of \$200.00 pay per month for 2 months, 15 days extra duty, and a reprimand;

"Return With Honor"

j. On or about 3 Jul 00, you failed to go at the prescribed time to your appointed place of duty. For this offense, you received an ROIC on 3 Jul 00.

k. On or about 24 Apr 00, you failed to clean up your dirty dishes in the fire station common kitchen. For this offense, you received an ROIC on 24 Apr 00.

l. On or about 23 Feb 00, you failed to go at the prescribed time to your appointed place of duty. For this offense, you received an ROIC on 23 Feb 00.

3. I have attached copies of the documents that will be forwarded to the separation authority. 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, the characterization of your service. If you are discharged, you will be ineligible for reenlistment in the Air Force and probably will be denied enlistment in any component of the armed forces. In addition, any special pay, bonus, or education assistance funds may be subject to recoupment.

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] on 1 May 2001, at 1400 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements in your own behalf. Any statements that you want the separation authority to consider must reach me by 1600 hours on 4 May 2001, 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 statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for two medical examinations. You must report to 31MDG/SGOAF (Physical Exams) on 3 May, 2001, at 0900 hours. Your second appointment is on 7 May, 2001, at 0840 hours. You will need to report 15 minutes prior to your appointments and pick up your medical records.

8. Any personal information that 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 unit orderly room as well as in the Area Defense Counsel's office.

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

[REDACTED]
Commander

Date: 1 May 01

Attachments (listed on the next page):

"Return With Honor"

Attachments:

1. Supporting Documentation:
 - a. ROIC, dtd 21 Mar 01
 - b. Article 15, dtd 29 Mar 01
 - c. LOR, dtd 14 Mar 01
 - d. Verbal Counseling, 1 Feb 01
 - e. LOR, dtd 5 Jan 01
 - f. LOR, dtd 21 Oct 00
 - g. Article 15, 23 Jan 01
 - h. ROIC, dtd 3 Jul 00
 - i. ROIC, dtd 24 Apr 00
 - j. ROIC, dtd 23 Feb 00
2. Member's Acknowledgment of Receipt of Notification Memorandum
3. EPRs
4. Member's Response