

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ██████████	GRADE AB	AFSN/SSAN ██████████
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TYPE UOTH	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 A67.30	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 05 Oct 2004	CASE NUMBER FD-2004-00244	
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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

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INDORSEMENT

DATE: 10/5/2004

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00244

GENERAL: The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and change the reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are denied.

ISSUE: Applicant contends discharge was inequitable due to unjust reasons. The records indicated the applicant received three Article 15s for failure to go, stealing two compact discs, leaving his appointed place of duty, being derelict in the performance of his duties and for being disorderly; a Letter of Reprimand for failure to go and failure to obey an order; and a Summary Court Martial for breaking a restriction. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board finds the applicant's statement about being "separated due to unjust reasons" is without merit and 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 UOTH Disch fr Tinker AFB, OK on 18 Mar 02 UP AFI 36-3208, para 5.52 & 5.49 (Misconduct - Commission of a Serious Offense & Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 21 Aug 81. Enlmt Age: 19 6/12. Disch Age: 20 6/12. Educ: HS DIPL. AFQT: N/A. A-48, E-50, G-36, M-49. PAFSC: 2A632 - Aerospace Ground Equipment Apprentice. DAS: 4 Nov 01.

b. Prior Sv: (1) AFRes 21 Feb 01 - 12 Mar 01 (20 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 13 Mar 01 for 6 yrs. Svd: 1 Yrs 0 Mo 6 Das, of which AMS is 0 yrs 11 months 24 days (excludes 13 days lost time).

b. Grade Status: AB - 27 Nov 01 (Article 15, 27 Nov 01)
 Amn - 19 Oct 01 (Article 15, 19 Oct 01)
 A1C - 27 Apr 01

c. Time Lost: 22 Feb 02 thru 6 Mar 02 (13 days).

d. Art 15's: (1) 17 Jan 02, Tinker AFB, OK - Article 86. You, did, on or about 30 Dec 01, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: extra duty at building 230. Article 121. You, did, on or about 28 Dec 01, steal two compact discs, of a value of about \$26.00, the property of the Army and Air Force Exchange Service. Forfeiture of \$552.00 pay per month for 2 months, 45 days extra duty, and 45 days restriction. (No appeal) (No mitigation)

(2) 27 Nov 01, Tinker AFB, OK - Article 86. You did, on or about 9 Nov 01, without authority, go from your appointed place of duty. Article 92. You, who knew of your duties, on or about 15 Nov 01, were derelict in the performance of those duties in that you willfully failed to report back to Building 5899 after completing your detail, as it was your duty to do. Reduction to AB, 45 days extra duty, and a reprimand. (Appeal/Denied) (No mitigation)

(3) 19 Oct 01, Sheppard AFB, TX - Article 134. You were,

on or about 2 Oct 01, disorderly. Reduction to Airman, 5 days restriction, 5 days extra duty, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 28 NOV 01 - Failure to go and failure to obey an order.

f. CM: Summary Court Martial - 22 Feb 02

CHARGE: Article 134.

Specification: Having been restricted to the limits of Tinker AFB, OK, by a person authorized to do so, did, at or near Midwest City, OK, on or about 23 Jan 02, break said restriction. Fifteen days confinement.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (0) Mos (13) Das
TAMS: (0) Yrs (11) Mos (24) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Jun 04.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: RE-entry code to be changed from 2B to 1J and character of service changed to Honorable.

Issue 2: I believe I was seperated (sic) due to unjust reasons and would like my records upgraded. I plan on joining another branch of service.

ATCH

1. DD Form 149.

5AUG04/ia



DEPARTMENT OF THE AIR FORCE
552d EQUIPMENT MAINTENANCE SQUADRON (ACC)
TINKER AIR FORCE BASE OKLAHOMA

FD 2004-00244

29 January 2002

MEMORANDUM FOR AB [REDACTED], 552 EMS

FROM: 552 EMS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for Misconduct according to AFD 36-32 and AFI 36-3208, under the provisions of paragraph 5.52, Commission of a Serious Offense, and paragraph 5.49, Minor Disciplinary Infractions. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action under paragraph 5.52 are:

a. On or about 28 Dec 01, at or near Tinker AFB OK, you stole two compact disks, of a value of about \$26.00 that were the property of Army and Air Force Exchange Services. Also, on or about 30 Dec 01, without authority, at or near Tinker AFB OK, you failed to go at the time prescribed to your appointed place of duty, Bldg 230. As a result, you received an Article 15, dated 17 Jan 02. Punishment was forfeiture of \$552 pay per month for two months, forty-five days extra duty, and restriction to Tinker AFB OK for forty-five days. See Atch 1.

My reasons for this action under paragraph 5.49 are:

b. On or about 2 Oct 01, without authority, at Sheppard Air Force Base TX, you were disorderly. As a result, you received an Article 15, dated 19 Oct 01. Punishment was reduction to the grade of airman, effective 19 Oct 01, restriction to the limits of Sheppard AFB TX for five days, five days extra duty, and a reprimand. See Atch 2.

c. On or about 9 Nov 01, without authority, at or near Tinker AFB OK, you left your appointed place of duty, Bldg 5899. As a result, you received an Article 15, dated 27 Nov 01. Punishment was reduction to the grade of airman basic, effective 27 Nov 01, 45 days extra duty, and a reprimand. See Atch 3.

d. On each 13 and 14 Nov 01, you failed to obey an order and/or regulation. You did not report back to Bldg 5899, Tinker AFB OK, so you could be released for the day. Also, on 26 Nov 01, you received a ticket for careless driving at Tinker AFB OK. As a result, you received a Letter of Reprimand (LOR), dated 28 Nov 01, with Unfavorable Information File (UIF) action. See Atch

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive a UOTHC discharge. 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..

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You were scheduled for a medical examination on 13 Dec 01 and you should have reported to the Tinker AFB Hospital, Physical Exam Section, on that date for the examination.

6. Military legal counsel, Capt. [REDACTED], Bldg 452, Tinker AFB, OK, telephone 739-7713, has been obtained to assist you. You may consult her on 30 January 2002 at 1000 hours, at Bldg 452. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within seven workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing. 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.

FD 2004-00244

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



[Redacted Name], Major, USAF
Commander, 552 EMS

Attachments:

1. Art 15, dtd 17 Jan 02
2. Art 15, dtd 19 Oct 01
3. Art 15, dtd 26 Nov 02
4. LOR, dtd 28 Nov 01, w/UIF
5. Cy Recommendation Ltr