

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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<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>																																										
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00342

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: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15s, four Letters of Reprimand and four Records of Individual Counseling for dereliction in duties, writing bad checks totaling \$754.33, a civil arrest for speeding and driving with a suspended driver's license, other traffic violations, failure to complete his CDCs, failure of dormitory inspections and late for duty. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board 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]
(Former AMN) (HGH A1C)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Moody AFB, GA on 7 Feb 01 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: 3 Jul 77. Enlmt Age: 21 10/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-74, E-90, G-82, M-82. PAFSC: 2F031 - Fuels Apprentice. DAS: 10 Apr 00.

b. Prior Sv: (1) AFRes 28 May 99 - 22 Jun 99 (26 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 23 Jun 99 for 6 yrs. Svd: 1 Yrs 7 Mo 16 Das, of which AMS is 1 Yr 7 Months 12 Days (excludes 4 days lost time).

b. Grade Status: Amn - 30 Jun 00 (Vacation of Article 15, 22 Nov 00)
A1C - Unknown.

c. Time Lost: 30 Jun 00 through 3 Jul 00 (4 days).

d. Art 15's: (1) 22 Nov 00, Vacation, Moody AFB, GA - Article 92. You, who knew or should have known of your duties, on or about 9 Nov 00, were derelict in the performance of those duties in that you willfully failed to follow Air Force Technical Order 00-25-172, page 5-2, paragraph 5-5, by driving an R-11 refueling unit within 25 feet of the wing tips of two C-130 aircraft parked adjacent to one another, as it was your duty to do. Reduction to Airman. (No appeal) (No mitigation)

(2) 30 Jun 00, Moody AFB, GA - Article 123a. You, did, on divers occasions from between on or about 13 May 00 and on or about 25 May 00, with intent to defraud and for the procurement of goods or services, wrongfully and unlawfully make and utter to Army and Air Force Exchange Service (AAFES), certain checks upon the Bank of America in words and figures as follows, to wit: check# 1040, dated 13 May 00, in the amount of \$180.36. Check# 1041, dated 14 May 00, in the amount of \$64.19. Check# 1044, dated 24 May 00, in the amount of \$77.68. Check# 1043, dated 24 May 00, in the amount of \$263.70. Check# 1042, dated 25 May 00, in the amount of \$168.40, of a total

amount of about \$754.33, then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with such bank for the payment of the said checks in full upon its presentment. Suspended reduction to Airman. Fifteen days restriction, and 30 days extra duty. (No appeal) (No mitigation)

- e. Additional: LOR, 04 JAN 01 - Civil arrest for speeding and driving with a suspended driver's license.
 RIC, 20 NOV 01 - Excessive speed and reckless driving.
 LOR, 12 OCT 00 - Failure to wear a seatbelt.
 LOR, 15 SEP 00 - Failure to complete CDC, Volume II.
 LOR, 14 JUL 00 - Dereliction of duties.
 RIC, 10 JUL 00 - Dorm room inspection failure.
 RIC, 20 JUN 00 - Late for duty.
 RIC, 26 APR 00 - Failure to comply with dress and appearance standards, and disruptive influence in the classroom.
- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (1) Yrs (8) Mos (7) Das
 TAMS: (1) Yrs (7) Mos (12) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 20 Aug 04.
 (Change Discharge to Honorable)

Issue 1: On 20 Nov 2000 I recieved (sic) a letter of counseling for speed by an NCO who had no radar or laser to determine my rate of speed.

Issue 2: On 04 Jan 01 I recieved (sic) an LOR for an offense that I had already been punished for in a civilian court, thus give me double punishment for a single offense.

Issue 3: If you look at my record prior to entering the Air Force I was not a trouble maker, that was a stigma give (sic) to me by my shop.

ATCH

None.

30SEP04/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 347TH WING (ACC)
MOODY AIR FORCE BASE, GEORGIA

FD 2004-00342

16 January 2001

MEMORANDUM FOR AMN [REDACTED]

FROM: 347 SUPS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for conduct prejudicial to good order and discipline. The authority for this action is AFD 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 as follows:
 - a. On 24 Apr 00, you failed to comply to Air Force standards when you reported to duty wearing an unauthorized civilian garment with your military uniform. On 25 Apr 00, you, again failed to comply to Air Force standards when you failed to wear proper head gear with your military uniform while outdoors. For these offenses, you received a Letter of Counseling (LOC), dated 26 Apr 00 (Atch 1a).
 - b. On 20 Jun 00, you failed to report to work at the prescribed time. For this offense, you received a LOC, dated 20 Jun 00 (Atch 1b).
 - c. You, did, at or near Moody Air Force Base, Georgia, on divers occasions from between on or about 13 May 2000 and on or about 25 May 2000, with intent to defraud and for the procurement of goods or services, wrongfully and unlawfully make and utter to Army and Air Force Exchange Service (AAFES), certain checks upon the Bank of America of a total amount of about \$754.33, then knowing that you, the maker thereof, did not or would not have sufficient funds in or credit with such bank for the payment of the said checks in full upon their presentment. For this offense you received nonjudicial punishment pursuant to Article 15, UCMJ, on 30 Jun 2000 (Atch 1c), which was used to establish your unfavorable information file (UIF). Punishment included a suspended reduction to the grade of airman and restriction to Moody Air Force Base, Georgia for 15 days.
 - d. On 7 Jul 00, you failed to maintain your dormitory room in an acceptable manner in accordance with AFI 32-6005, Maintenance of Government Facilities. For this offense, you received a LOC, dated 10 Jul 00 (Atch 1d).

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- e. Between on or about 10 Jul 00 and on or about 13 Jul 00, you were derelict in the performance of your duties in that you failed to prepare your dormitory room for inspection on three separate occasions. For these offenses, you received a Letter of Reprimand (LOR), dated 14 Jul 00 (Atch 1e), which was placed in your UIF.
- f. On or about 15 Sept 00, you, were derelict in the performance of your duties in that you failed to complete your CDC Volume II in the allotted time. For this offense you received a LOR, dated 15 Sept 00 (Atch 1f), which was placed in your UIF.
- g. On or about 11 Oct 00, you were derelict in duty in that you failed to wear your seatbelt while driving a military vehicle on base. For this offense you received a LOR, dated 12 Oct 00 (Atch 1g), which was placed in your UIF.
- h. On or about 16 Nov 00, you failed to obey base speed limits in that you were observed driving at a speed well in excess of the posted 15 miles per hour. For this offense you received a LOC, dated 20 Nov 00 (Atch 1h).
- i. You, who knew or should have known of your duties at or near Moody Air Force Base, Georgia on or about 9 Nov 00, were derelict in the performance of those duties in that you willfully failed to follow Air Force Technical Order 00-25-172, page 5-2, paragraph 5-5, by driving an R-11 refueling unit within 25 feet of the wing tips of two C-130 aircraft parked adjacent to one another, as it was your duty to do. For this offense, the suspended punishment from your prior Article 15, UCMJ action, dated 30 Jul 00, was vacated. Punishment included a reduction to the grade of airman (Atch 1i).
- j. On or about 31 Dec 00, you were incarcerated by local authorities for a speeding violation and for driving on a suspended license. For these offenses you received a LOR, dated 4 Jan 01, which was placed in your UIF (Atch 1j).

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 will probably be precluded from enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds may be subject to recoupment.

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] Area Defense Counsel, in Building 5107 Austin Ellipse, Moody AFB, GA, extension [REDACTED] on 17 January 2001 at 1100 hrs. Please take your copy of this Notification Memorandum and attachments with you to your appointment. You may consult civilian counsel at your own expense.

4. You have the right to submit a statement in your own behalf. Any statements you want the separation authority to consider must reach me within three duty days after receipt of this notification letter 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 have been scheduled for a medical examination. You must report to the Moody Air Force Base Hospital, Physical Exams, Building 3296, on 18 January 2001 at 1300 hrs for the examination. This is a mandatory appointment. Be sure to bring your medical records to this appointment.
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. Supporting Documents, Reasons for Discharge
 - a. LOC, 26 Apr 00
 - b. LOC, 20 Jun 00
 - c. AF Form 3070/UIF, 30 Jun 00
 - d. LOC, 10 Jul 00
 - e. LOR/UIF, 14 Jul 00
 - f. LOR/UIF, 15 Sept 00
 - g. LOR/UIF, 12 Oct 00
 - h. LOC, 20 Nov 00
 - i. AF Form 366, 29 Nov 00
 - j. LOR, 4 Jan 01
2. Receipt of Notification Memorandum (w/d)