

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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|---|----|-------------------------------------|--------------|--|---|-------|-------|------|
| 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 | X | PERSONAL APPEARANCE | | | RECORD REVIEW | | | |
| COUNSEL | | NAME OF COUNSEL AND OR ORGANIZATION | | | ADDRESS AND OR ORGANIZATION OF COUNSEL <div style="background-color: black; width: 100%; height: 15px;"></div> | | | |
| YES | No | | | | | | | |
| X | | | | | | | | |
| MEMBER SITTING | | | | VOTE OF THE BOARD | | | | |
| | | | | HON | GEN | UOTHC | OTHER | DENY |
| | | | | X | | | | |
| | | | | X | | | | |
| | | | | X | | | | |
| | | | | | | | | X |
| | | | | X | | | | |
| ISSUES A94.06 A92.22 | | INDEX NUMBER A67.10 | | 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 09 Nov 2004 | | CASE NUMBER FD-2004-00344 | | | | | | |
| APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.</p> | | | | | | | | |
| ENDORSEMENT | | | | | | | | |
| 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-2004-00344

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

The applicant appeared before the Discharge Review Board (DRB) with council, [REDACTED], of the American Legion, on 9 November 2004.

The applicant submitted the following additional documents:

Exhibit 6: Character Letter, 25 Oct 04, from [REDACTED]

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's discharge inequitable.

ISSUE:

Issue 1. Applicant contends discharge was inequitable because it was based on one isolated incident and too harsh. The records indicated the applicant received an Article 15, one Letter of Reprimand, and one Memorandum for Record for misconduct.

Issue 2. Applicant states that his discharge did not take into account 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. The Board concluded the discharge was inequitable for the reasons which were the basis for this case.

Issue 3. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on September 7, 1996) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

[REDACTED]
[REDACTED] (Former AMN) (HGH A1C)

MISSING MEDICAL RECORDS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Bolling AFB, DC on 28 Dec 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Nov 75. Enlmt Age: 20 7/12. Disch Age: 23 1/12. Educ: HS DIPL. AFQT: N/A. A-79, E-88, G-74, M-87. PAFSC: 8G000 - USAF Honor Guard. DAS: 11 Nov 96.

b. Prior Sv: (1) AFRes 12 Jul 96 - 24 Sep 96 (2 months 13 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 25 Sep 96 for 4 yrs. Svd: 2 Yrs 3 Mo 5 Das, all AMS.

b. Grade Status: Amn - 29 Apr 98 (Article 15, 29 Apr 98)

c. Time Lost: None.

d. Art 15's: (1) 29 Apr 98, Bolling AFB, DC - Article 92. You, who knew of your duties, on or about 13 Mar 98, were derelict in the performance of your duties by failing to refrain from providing alcoholic beverages to persons under 21 years of age, and failing to refrain from consuming alcoholic beverages while on duty and in a government owned vehicle, as it was your duty to do. Reduction to Airman, and a reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 20 NOV 98 - Failure to go.
MFR, 20 FEB 98 - Unsatisfactory performance while marching, disrespectful behavior towards higher ranking individuals, and insubordination.

f. CM: None.

g. Record of SV: 25 Sep 96 - 24 May 98 Bolling AFB 3 (Initial) REF

h. Awards & Decs: AFOUA, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (5) Mos (17) Das
TAMS: (2) Yrs (3) Mos (5) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 23 Aug 04.

(Change Discharge to Honorable)

Issue 1: My discharge was inequitable because it included one isolated Article 15 with two MFR's that were incorrect & unjustly given by the Airman in question. The LOR was also unjust and was not investigated fairly. These uninvestigated and onesided statements (except Article 15) were not just reason for anything less than an Honorable discharge.

ADDITIONAL ISSUES ATTACHED TO BRIEF.

ATCH

1. Additional Issues.
2. DD Form 214, Army National Guard.
3. Notification of Administrative Separation Action.
4. Three Personal Statements.
5. Notification Memorandum, 4 Dec 98.
6. Memo For Record, 30 Oct 98.
7. Rebuttal for Letter of Reprimand.

1OCT04/ia



DEPARTMENT OF THE AIR FORCE

11TH WING

FD 2004-00344

MEMORANDUM FOR [REDACTED]

FROM: [REDACTED]

50 Duncan Avenue
Bolling AFB, DC 20332-0203

4 DEC 98

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 AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general without probation and rehabilitation.

2. My reasons for this action are:

a. On or about 20 February 1998, you derelict in the performance of your duty, to wit: laughing and talking while in formation during an inspection. For this misconduct, you received a verbal counseling as documented by a Memorandum for Record, dated 20 February 1998 (Atch 1).

b. On or about 13 March 1998, you were derelict in the performance of your duties by failing to refrain from providing alcoholic beverages to persons under 21 years of age, and failing to refrain from consuming alcoholic beverages while on duty and in a government owned vehicle, as it was your duty to do. For this misconduct, you received nonjudicial punishment under Article 15, UCMJ, dated 29 April 1998 (Atch 2).

c. On or about 29 October 1998, you failed to go at the time prescribed to your appointed place of duty, to wit: 0500 fallout. For this misconduct, you received a verbal counseling as documented by a Memorandum for Record, dated 30 October 1998 (Atch 3).

d. On 29 October 1998, you failed to go at the time prescribed to your appointed place of duty, to wit: Ceremonial Commitments. For this misconduct, you received a Letter of Reprimand, dated 20 November 1998 (Atch 5).

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 discharge or retained in the Air Force. 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.

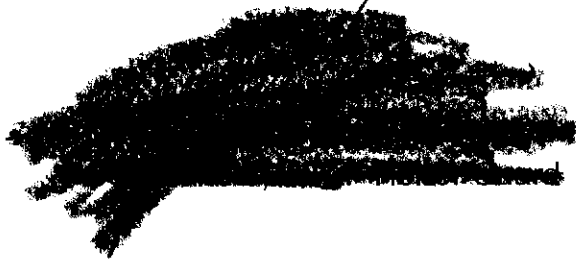
4. You have the right to counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel, Bldg 1430, Andrews AFB MD., (240) 857-6624 on 9 December 1998, at 0900 hours. You may consult civilian counsel at your own expense.

5. You have been scheduled for a medical examination. You must report to the Bolling AFB Clinic, Annex Bldg 17, at 0900 hours on 8 December 1998 for the examination.

6. You have the right to submit a statement on your own behalf. Any statements you want the separation authority to consider must reach me within 3 duty days of receipt of this notification, unless you request and receive an approved extension. I will send any documents you submit to the separation authority.

7. If you fail to consult counsel or to submit statements on your behalf, your failure will constitute a waiver of your right to do so.

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 orderly room.



Attachments:

1. Memorandum for Record, 20 Feb 98
2. Record of Nonjudicial Punishment Proceedings (3 pgs), 29 Apr 98
3. Memorandum for Record (3 pgs), 30 Oct 98
4. Letter of Reprimand, 20 Nov 98