

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="background-color: black; width: 100%; height: 1em;"></div>				GRADE AB		AFSN/SSAN <div style="background-color: black; width: 100%; height: 1em;"></div>	
TYPE GEN		PERSONAL APPEARANCE				X 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
				X			
				X			
				X			
							X
							X
ISSUES		INDEX NUMBER		EXHIBITS SUBMITTED TO THE BOARD			
A94.06		A49.00		1 ORDER APPOINTING THE BOARD			
A94.54				2 APPLICATION FOR REVIEW OF DISCHARGE			
A01.56				3 LETTER OF NOTIFICATION			
A29.04				4 BRIEF OF PERSONNEL FILE			
A94.04				COUNSEL'S RELEASE TO THE BOARD			
				ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE			
				TAPE RECORDING OF PERSONAL APPEARANCE			
HEARING DATE		CASE NUMBER					
28 Dec 2004		FD-2004-00386					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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.							
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>							
ENDORSEMENT				DATE: 12/29/2004			
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-2004-00386

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: The Board grants the requested relief.

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 impropriety that would justify a change of discharge. However, based upon the record, the Board finds the applicant's characterization of discharge inequitable.

ISSUE: Applicant was discharged for unsatisfactory performance and minor disciplinary infractions, with unsatisfactory performance as the primary reason. The records indicated the applicant had many infractions while in technical training, to include being late for formations and duty multiple times, room inspection failures, dress and appearance violations, sleeping on duty, refusal to do homework, and failure to obey an order. The record reflected that the first of these incidents occurred the day after member arrived on station, and he had at least 18 infractions in under a 5-month period. At the time of the discharge, member waived his right to consult counsel or submit statements on his own behalf; the records indicated he desired to be separated due to family problems, having civilian employment already arranged, and desiring to begin a college education. The DRB noted that member's commander and the base legal staff recommended his service be characterized as honorable, nevertheless, the discharge authority directed his service be characterized as under honorable conditions (general). There was no explanation for the discharge authority's decision in his memorandum directing the discharge. Furthermore, the Board noted that most of member's minor disciplinary infractions occurred within the first 180 days of service, and surmised that the chain of command could have initiated an uncharacterized Entry Level Separation, but failed to do so. Because the discharge action was begun after the first 180 days of active service, an Entry Level Separation was then no longer an available option. While the Board does not condone applicant's misconduct while in service, in view of these factors, the Board felt the discharge characterization was too harsh and inequitable, and should be upgraded to honorable.

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. The applicant's characterization of discharge should be changed to honorable 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]
(Former AB) (HGH AB)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Keesler AFB, MS on 26 Apr 01 UP AFI 36-3208, para 5.26 (Unsatisfactory Performance). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 19 Dec 81. Enlmt Age: 17 11/12. Disch Age: 19 4/12. Educ: HS DIPL. AFQT: N/A. A-80, E-76, G-59, M-68. PAFSC: 2E113 - Ground Radio Communications Helper. DAS: 20 Nov 00.

b. Prior Sv: (1) AFRes 20 Nov 99 - 3 Oct 00 (10 months 14 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 4 Oct 00 for 6 yrs. Svd: 0 Yrs 6 Mo 23 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: AETC 341, 24 MAR 01 - Sleeping on duty.
AETC 341, 21 MAR 01 - Sleeping on duty.
AETC 341, 20 MAR 01 - Breaking Phase.
LOR, 14 MAR 01 - Missed two formations and disobeyed an order to get a haircut.
LOR, 05 MAR 01 - Late for formation and reporting to work in an unserviceable uniform.
AETC 341, 13 FEB 01 - Sleeping in class.
AETC 341, 26 JAN 01 - AFI 36-2907 violation.
AETC 341, 22 JAN 01 - Refused to do homework.
AETC 173, 22 JAN 01 - Missed formation.
AETC 341, 16 JAN 01 - Late for formation.
AETC 173, 12 DEC 00 - Room inspection failure.
AETC 173, 06 DEC 00 - Room inspection failure.
AETC 341, 04 DEC 00 - Failure to have military ID.
AETC 341, 30 NOV 00 - Late for formations.
AETC 341, 21 NOV 00 - Late for duty.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yrs (5) Mos (7) Das
TAMS: (0) Yrs (6) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 12 Sep 04.
(Change Discharge to Honorable)

NO ISSUES SUBMITTED.

ATCH

1. DD Form 214.

5DEC04/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

APR 19 2001

MEMORANDUM FOR AB [REDACTED]

FROM: 338 TRS/TRM

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, Chapter 5, Section E, paragraph 5.26 (Unsatisfactory Duty Performance) and Section H, paragraph 5.49 (minor disciplinary infractions). The primary basis is paragraph 5.26. If my recommendation is approved, your discharge will be described as honorable or general. I am recommending that your service be characterized as honorable.

2. My reasons for this action are:

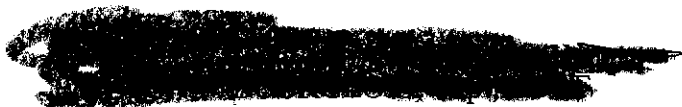
- a. On 24 Mar 01, you failed to stay awake while on dorm guard duty, for which you were counseled on that date. (Atch 1, Appendix A)
- b. On 21 Mar 01, you were found sleeping on duty, for which you were counseled on that date. (Atch 1, Appendix B)
- c. On 20 Mar 01, you failed to comply with 2nd Air Force Phase Program by purchasing 2 packs of cigarettes while in Phase I, for which you were counseled on that date. (Atch 1, Appendix C)
- d. On 14 Mar 01, you received a Letter of Reprimand for the following offenses:
 - i. On 9 Mar 00, you failed to get a haircut as directed, and also failed to attend First Formation. (Atch 1, Appendix D w/atchs)
 - ii. On 8 Mar 00, you failed to be in compliance with AFI 36-2903 by needing a haircut. (Atch 1, Appendix D w/atchs)
 - iii. On 5 Mar 00, you failed to show for First Formation. (Atch 1, Appendix D w/atchs)
- e. On 13 Feb 01, you failed to stay awake in class, for which you were counseled on 6 Mar 01. (Atch 1, Appendix E w/atch)
- f. On 5 Mar 01, you received a Letter of Reprimand for the following offenses:

- i. On 28 Feb 01, you were 15 minutes late for First Formation. (Atch 1, Appendix F w/atch)
 - ii. On 28 Feb 01, you arrived in an unserviceable (extremely wrinkled) uniform, and it was discovered that you had seven other negative entries in your collateral training folder. (Atch 1, Appendix F w/atch)
 - g. On 26 Jan 01, you had an AFI 36-2903 violation, for which you were counseled on that date. (Atch 1, Appendix G)
 - h. On 22 Jan 01, you refused to do your assigned Block III homework, for which you were counseled on that date. (Atch 1, Appendix H)
 - i. On 16 Jan 01, you were absent from a mandatory formation, for which you were counseled on 22 Jan 01. (Atch 1, Appendix I w/atch)
 - j. On 6 Dec 00, you had a room failure, for which you were counseled on 12 Dec 00. (Atch 1, Appendix J w/atch)
 - k. On 4 Dec 00, you failed to have your military ID on your person, for which you were counseled on that date. (Atch 1, Appendix K)
 - l. On 30 Nov 00, you were late or missing from Second Formation, for which you were counseled on that date. (Atch 1, Appendix L)
 - m. On 21 Nov 00, you were 10 minutes late for a briefing, for which you were counseled on that date. (Atch 1, Appendix M)
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 higher 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. Any special pay, bonuses, 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 ADC at Bldg 0701, Room 102, on TBD at TBD hours. You may consult civilian counsel at your own expense.
5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider must reach me by 24 Apr 01 by 1630 hours 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 a medical examination. You must report to 81st Medical Group, Physical Exams on TBD, 2001 at — hours for the examination.

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 Bldg 7102, CQ.

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



Commander, MTF

Attachments:

1. Supporting Documents
 - a. AETC Form 341, dated 24 Mar 01
 - b. AETC Form 341, dated 21 Mar 01
 - c. AETC Form 341, dated 20 Mar 01
 - d. Letter of Reprimand, dated 14 Mar 01 w/atchs
 - e. AETC Form 173, dated 6 Mar 01 w/atch
 - f. Letter of Reprimand, dated 5 Mar 01 w/atch
 - g. AETC Form 341, dated 26 Jan 01
 - h. AETC Form 341, dated 22 Jan 01
 - i. AETC Form 173, dated 22 Jan 01 w/atch
 - j. AETC Form 173, dated 12 Dec 00 w/atch
 - k. AETC Form 341, dated 4 Dec 00
 - l. AETC Form 341, dated 30 Nov 00
 - m. AETC Form 341, dated 21 Nov 00
2. Airman's Receipt of Notification Memorandum
3. Airman's Statements

ATCH 1