

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

INITIAL)				GRADE AB			
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	DENY
							X
							X
							X
							X
							X
ISSUES A93.23 A93.21		INDEX NUMBER A67.90		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 06 Apr 2005		CASE NUMBER FD-2004-00422					
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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>							
INDORSEMENT				DATE: 4/6/2005			
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-2004-00422

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 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 contends discharge was inequitable because it was based on incidents that occurred as a result of his medical condition that developed while in service. The records indicated the applicant received a Summary Court Martial, an Article 15, a vacation action, five Letters of Reprimand, four Letters of Counseling, and two Records of Individual Counseling for misconduct. The applicant developed insomnia and was diagnosed with Adjustment Disorder with Depressed Mood. However, member didn't seek medical assistance for his insomnia until his superior insisted member contact health professionals due to his chronic late arrival at work. Additionally, at the time member first was diagnosed (Jul 03) with insomnia, he denied any existing depression. The DRB acknowledged the member's contention that his discharge was based on incidents that occurred as a result of his medical condition. Although the member's insomnia could have contributed to his failure to arrive at work on time (Jun 03), the Board found that a significant portion of the applicant's multiple other instances of misconduct bore no casual or mitigating relationship with the medical condition, many which also predated onset of applicant's clinical symptoms. In Sep 03, member was diagnosed with Adjustment Disorder with Depressed Mood associated with his court-martial. The DRB opined that through the above 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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr McChord AFB, WA on 12 Dec 03 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: 17 Dec 82. Enlmt Age: 18 4/12. Disch Age: 20 11/12. Educ: HS DIPL. AFQT: N/A. A-92, E-87, G-96, M-78. PAFSC: 2T231 - Air Transportation Apprentice. DAS: 14 Sep 02.

b. Prior Sv: (1) AFRes 15 May 01 - 21 Aug 01 (3 months 7 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 22 Aug 01 for 6 yrs. Svd: 2 Yrs 3 Mo 21 Das, of which AMS is 2 yrs 3 months 5 days (excludes 16 days lost time).

b. Grade Status: AB - 6 Nov 03 (SCM, 6 Nov 03)
Amn - 9 Sep 03 (Article 15, 9 Sep 03)
A1C - 5 Oct 01

c. Time Lost: 6 Nov 03 - 22 Nov 03 (16 days).

d. Art 15's: (1) 25 Sep 03, Vacation, McChord AFB, WA - Article 92. You, who knew of your duties, on or about 17 Sep 03, were derelict in the performance of those duties in that you willfully failed to complete the Fairchild Remotivation Program, as it was your duty to do. Forfeiture of \$645.00 pay per month for 2 months. (No appeal) (No mitigation)

(2) 9 Sep 03, McChord AFB, WA - Article 80. You did, on or about 15 Aug 03, without authority, fail to go at the time prescribed to your appointed place of duty. Article 86. You did, on or about 25 Aug 03, without authority, go from your appointed place of duty. Reduction to Airman. Suspended forfeiture of \$645.00 pay per month for two months. Thirty days correctional custody deferred until 17 Sep 03. (No appeal) (No mitigation)

e. Additional: LOC, 12 JUN 03 - Late for work.
LOC, 11 JUN 03 - Late for work.
LOR, 29 MAR 03 - Financial irresponsibility.
RIC, 08 NOV 02 - Missed appointment.

RIC, 08 NOV 02 - Missed appointment.
 LOC, 08 OCT 02 - Missed roll call & late for work.
 LOR, 03 JUN 02 - Violation of Phase Program.
 LOR, 24 MAY 02 - Violation of Phase I.
 LOR, 21 MAY 02 - Leaving latrine unsecured.
 LOC, 15 MAY 02 - Failed room inspection.

f. CM: (Examiner's Note: CHARGE II, Specification 2 & 3 appear to be identical, however, I could not find any paperwork correcting it, so I typed it as is).

Summary Court Martial - 6 Nov 03.

CHARGE I: Violation of the UCMJ, Article 90. Plea: Guilty.
Finding: Guilty.

Specification: In that [REDACTED] USAF, 62nd Aerial Port Squadron (AMC) having received a lawful command from [REDACTED] his superior commissioned officer, to participate in correctional custody, or words to that effect, did, on or about 17 Sep 03, willfully disobey the same. Plea: Guilty. Finding: Guilty.

CHARGE II: Violation of the UCMJ, Article 91. Plea: Guilty.
Finding: Guilty.

Specification 1: In that [REDACTED] USAF, 62nd Aerial Port Squadron (AMS), having received a lawful order from [REDACTED] a non-commissioned officer, then known by the said Amn [REDACTED] to be a non-commissioned officer, to sprint to the back tree of the processing pad, an order which it was his duty to obey, did, on or about 17 Sep 03, willfully disobey the same. Plea: Guilty. Finding: Guilty.

Specification 2: In that [REDACTED] USAF, 62nd Aerial Port Squadron (AMS), having received a lawful order from [REDACTED] a non-commissioned officer, then known by the said Amn [REDACTED] to be a non-commissioned officer, to pick up the pace of his sit-ups, an order which it was his duty to obey, did, on or about 17 Sep 03, willfully disobey the same. Plea: Guilty. Finding: Guilty.

Specification 3: In that [REDACTED] USAF, 62nd Aerial Port Squadron (AMS), having received a lawful order from [REDACTED] a non-commissioned officer, then known by the said [REDACTED] to be a non-commissioned officer, to pick up the pace of his sit-ups, an order which it was his duty to obey, did, on or about 17 Sep 03, willfully disobey the same. Plea: Guilty. Finding: Guilty.

CHARGE III: Violation of the UCMJ, Article 92.

Plea: Guilty. Finding: Guilty.

Specification: In that Amn [REDACTED], USAF, 62nd Aerial Port Squadron (AMS), who knew of his duty, on or about 6 Oct 03, was derelict in the performance of that duty in that he willfully failed to refrain from drinking alcohol while under the lawful drinking age, as it was his duty to do. Plea: Guilty. Finding: Guilty. Sentence adjudged on 6 Nov 03: Reduction to AB, confinement for 21 days, and forfeiture of ½ months pay (\$575.00) for 1 month.

g. Record of SV: 22 Aug 01 - 22 Apr 03 McChord AFB 3 (Initial)REF

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (2) Yrs (6) Mos (12) Das
TAMS: (2) Yrs (3) Mos (6) Das

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

Issue 1: My discharge was inequitable because it was based on incidents that occurred as a result of my medical condition that I developed while in the service. I did not recieve (sic) medical treatment but instead recieved (sic) disciplinary action.

ATCH

1. Evaluation Report.

15DEC04/ia



DEPARTMENT OF THE AIR FORCE
62D AERIAL PORT SQUADRON (AMC)

FD 2004-00422

NOV 25 2003

MEMORANDUM FOR AIRMAN BASIC [REDACTED]

FROM: 62 APS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force based on a Pattern of Misconduct (Conduct Prejudicial to Good Order and Discipline). The authority for this action is AFRD 36-32, *Military Retirements and Separations*, and AFI 36-3208, *Administrative Separation of Airmen*, Para 5.50.2. If my recommendation is approved, then your service will be characterized as Honorable or General (Under Honorable Conditions). I am recommending that your service be characterized as General.

2. My reasons for this action are:

a. On or about 17 Sep 03, you willfully disobeyed a lawful command and three lawful orders by failing to participate in correctional custody at Fairchild AFB, WA. Additionally, on or about 6 Oct 03, were derelict in the performance of your duties by failing to refrain from drinking alcohol while underage. For this misconduct, you received a court martial conviction and were punished with a reduction to E-1, forfeiture of \$575.00 pay for 1 month, and confinement for 21 days. (See Atchs 1a and 1b.)

b. On or about 17 Sep 03, you were derelict in the performance of your duties by failing to complete the Fairchild Remotivation Program. For this misconduct, your suspended forfeiture of \$645.00 pay per month for 2 months was vacated. This action was placed in your existing Unfavorable Information File (UIF). (See Atchs 1c and 1p.)

c. On or about 15 Aug 03, you failed to go at the time prescribed to your appointed place of duty. Additionally, on 25 Aug 03, you left from your appointed place of duty without authority. For these infractions, you received an Article 15. Your punishment consisted of a reduction to E-2, a suspended forfeiture of \$645.00 pay per month for 2 months, and 30 days correctional custody. This action was placed in your existing UIF. (See Atchs 1d and 1p.)

d. On or about 12 Jun 03, you failed to go at the time prescribed to your appointed place of duty. For this misconduct, you received a third Letter of Counseling (LOC). (See Atch 1e.)

e. On or about 9 Jun 03, you failed to go at the time prescribed to your appointed place of duty and returned from lunch later than the prescribed time. Additionally, you failed to complete your Career Development Courses (CDC) within the 3-month deadline. For these infractions, you received a second LOC. (See Atch 1f.)

f. On or about 3 Feb 03, you dishonorably failed to pay your debts. For this misconduct, you received a sixth Letter of Reprimand (LOR). This action was filed in your existing UIF. (See Atch 1g and 1p.)

g. On or about 7 Nov 02, you failed to go at the time prescribed to your appointed place of duty. For this misconduct, you received a second Record of Individual Counseling (RIC). (See Atch 1h.)

h. On or about 4 Nov 02, you failed to go at the time prescribed to your appointed place of duty. For this misconduct, you received a RIC. (See Atch 1i.)

i. On or about 4 Oct 02, you failed to go at the time prescribed to your appointed place of duty. For this misconduct, you received an LOC. (See Atch 1j.)

j. On or about 29 Jun 02, you violated the Phase Program by missing a formation. For this misconduct, you received a fourth LOR. This action was filed in your existing UIF. (See Atchs 1k and 1p.)

k. On or about 17 and 19 Jun 02, you failed to remain at your assigned detail until being officially released. For this misconduct, you received a third LOR. This action was filed in your existing UIF. (See Atchs 1l and 1p.)

l. On or about 23 May 02, you were seen at the Eglin AFB, Florida shoppette in civilian clothes and driving a Privately Owned Vehicle (POV) while in Phase I. For this misconduct, you received a second LOR. This action was filed in your existing UIF. (See Atchs 1m and 1p.)

m. On or about 21 May 02, you left your latrine unsecured. For this misconduct, you received your first LOR. This action was filed in your existing UIF. (See Atchs 1n and 1p.)

n. On or about 14 Mar 02, you failed two mandatory room inspections. For these infractions, you received an LOC. These actions initiated your UIF. (See Atchs 1o and 1p.)

3. I have attached copies of the documents to be forwarded to the separation authority in support of my recommendation. The commander exercising special court-martial (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, then you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. 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 is available to assist you. You have an appointment to consult the Area Defense Counsel, 305 6th Street, McChord AFB, WA 98438, 982-2240, on 25 Nov 03 at 0900 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 mon 1 Dec 2003 (three workdays) unless you request and receive an extension for good cause. I will forward any such statements to the separation authority.
6. If you fail to consult counsel or to submit statements in your own behalf, then your failure will constitute a waiver of your right to do so.
7. You have been scheduled for a mandatory Transition Pre-separation Counseling appointment at the Family Support Center, bldg 551, on 25 Nov 03 at 1500 hours.
8. You have been scheduled for a medical examination. You must report to Family Practice in building 690, on 25 Nov 03 at 1330 hours with your medical records.
9. The Privacy Act of 1974 protects any personal information you furnish in rebuttal. A copy of AFI 36-3208 is available for your use in the orderly room.
10. Execute the attached acknowledgment and return it to me immediately.



USAF

Attachments:

1.
 - a. AF Form 2329, dtd 18 Nov 03
 - b. DD Form 490, dtd 6 Nov 03
 - c. AF Form 366 dtd 25 Sep 03
 - d. AF Form 3070, dtd 9 Sep 03
 - e. LOC, dtd 12 Jun 03
 - f. LOC, dtd 11 Jun 03
 - g. LOR, dtd 29 Mar 03
 - h. AF Form 174, dtd 8 Nov 02
 - i. AF Form 174, dtd 8 Nov 02
 - j. LOC, dtd 8 Oct 02
 - k. LOR, dtd 3 Jul 02
 - l. LOR, dtd 20 Jun 02
 - m. LOR, dtd 24 May 02
 - n. LOR, dtd 21 May 02
 - o. LOC, dtd 15 May 02
 - p. AF Form 1137, undated
2. Airman's Receipt of Notification Memorandum