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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD-2004-00435

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.

ISSUES:

Issue 1. Applicant contends discharge was inequitable because it was too harsh and if his conduct was "patterned discreditable with military authorities, then he should have received extra duty, possible correctional actions, and/or reduction in rank prior to the final hours of his enlistment." The records indicated the applicant received two Article 15s, three Letters of Reprimand, nine Letters of Counseling, and several Memorandums for Record for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior 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.

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. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

Issue 3 applies to the applicant's post-service activities. The DRB was pleased to see that the applicant was doing well and has a good job. However, no inequity or impropriety in his discharge was suggested or found in the course of the review. The Board concluded the misconduct of the applicant appropriately characterized his term of service.

Issue 4. 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 19, 1987) 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.

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. The Board noted the member's DD Form 214 is in error and has requested corrective actions from the appropriate office. Member's DD Form 214 should reflect a General Discharge for a Pattern of Misconduct - Conduct Prejudicial to Good

Order and Discipline instead of Misconduct - A Pattern of Discreditable Involvement with Military or Civil Authorities. Additionally, the Board noted the member's AF Form 100, Request for Authorization for Separation, Special Order AA-834, dated 5 Feb 90, was also erroneously marked in Block 14, indicating honorable discharge instead of the approved general discharge.					
Attachment: Examiner's Brief					
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DEPARTMENT OF THE AIR FORCE AIR FORCE DISCHARGE REVIEW BOARD ANDREWS AFB, MD



(Former A1C) (HGH SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Dyess AFB, TX on 22 Feb 90 UP AFR 39-10, para 5-47b (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 22 Aug 67. Enlmt Age: 18 4/12. Disch Age: 22 6/12. Educ: HS DIPL. AFQT: N/A. A-99, E-94, G-94, M-92. PAFSC: 45552A - Communications and Navigation Systems Specialist. DAS: 14 Sep 87.

b. Prior Sv: Enlisted USMCR as Pvt 6 Jan 86. Svd: 1 yr 1 mo 2 Days, of which AMS is 6 months 5 days.

3. SERVICE UNDER REVIEW:

- a. Enlisted USAF as Amn 9 Feb 87 for 4 yrs. Svd: 3 Yrs 0 Mo 13 Das, all AMS.
 - b. Grade Status: A1C 08 Feb 90 (Article 15, 08 Feb 90) SrA - 03 Aug 89 A1C - 6 Dec 87
 - c. Time Lost: None.
 - d. Art 15's: (1) 8 Feb 90, Dyess AFB, TX Article 91. You, having received a lawful order from a noncommissioned officer, then known by you to be a noncommissioned office, to paint your dormitory room, Room 209, Building 6137, no later than 2 Feb 90, an order which it was your duty to obey, did, on or about 5 Feb 90, willfully disobey the same. Reduction to AlC, forfeiture of \$100.00 pay per month for one month. (No appeal) (No mitigation)
 - (2) 15 Dec 87, Dyess AFB, TX Article 92. You, who knew of your duties, on or about 9 Dec 87, were derelict in the performance of those duties in that you willfully failed to safeguard and secure your meal card from use by other military personnel, as it was your duty to do. Suspended reduction to Amm. Forfeiture of \$25.00 pay per month for 2 months. (No appeal) (No mitigation)
 - e. Additional: LOR, 16 NOV 89 Stealing.

 LOR, 28 SEP 89 Failure to go.

 LOC, 13 JUL 89 Failed room inspection.

- LOC, 16 DEC 88 Lighting a box of matches in dorm dayroom ash can.
- LOC, 15 NOV 88 Failure to use protective eye wear while soldering.
- LOC, 18 OCT 88 Motorcycle safety course failure.
- LOC, 02 AUG 88 AFR 35-10 violation.
- LOC, 13 JUL 88 Late for work.
- LOR, 20 JUL 88 Late for work.
- LOC, 06 MAY 88 Reporting for duty unshaven.
- LOC, 28 APR 88 Unacceptable duty performance.
- LOC, 18 DEC 87 Late for work.
- f. CM: None.
- g. Record of SV: 9 Feb 87 8 Feb 88 Dyess AFB 8 (Annual)
 - 9 Feb 88 5 Dec 88 Dyess AFB 7 (CRO)
 - 6 Dec 88 5 Dec 78 Dyess AFB 2 (Annual) REF
- h. Awards & Decs: AFTR.
- i. Stmt of Sv: TMS: (4) Yrs (1) Mos (17) Das TAMS: (3) Yrs (6) Mos (18) Das
- 4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 20 Oct 04. (Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.
- 2. DD Form 214.
- 3. AF Form 100.
- 4. DD Form 214.
- 5. Enlisted Performance Report.
- 6. NCO Evaluation Report.
- 7. Recommendation For Award.
- 8. Facts On AFR 39-10 Discharges.
- 9. Base Exchange Indebtedness Forms.
- 10. AF Form 973.
- 11. DD Form 214.

PD 2004-00435

1.4.3	JPPORTING DOCUMENTS (X 2	as applicable) (Please print name and :	social Security Number on each doc	unienc)				
	WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.							
х	ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)							
	a. DOCLIMENT 1:							
	DD Form 214. Dated 28 APR 2001							
	CUMENT 2:	na						
	orm 214. Dated 30 APR 200	J2 						
	CUMENT 3: orm 100 Request and Auth	orization for Seperation	(see attached s	heet for additional documents)				
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8. ISSUES The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.								
-16	Driginal discharge set as H	Ionorable (item-14 AF form-10	H					
		in two Honorable discharges (
		onorable Discharge. (attached l						
		o months prior to discharge sta		s": (attached AF form 910)				
		lemy rated as "Exceeded course						
61	ICO Evaluation rated as "	among the best". (part V section	rr a attached DA form 2166-8)					
		Soldier!" by company command						
		receiving Montgomery GI-Bill						
		scharge stated I would be entitle	ed to the GI Bill." (para 8 sect	on 2 attached sheet "facts;				
	9-10 discharges")							
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12.	concerning handwritten st	atement from acting First Serge	ant (attached)					
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	THE ABOVE ISSUES SUPERSEDE A	LL PREVIOUSLY SUBMITTED.						
9. CEI	RTIFICATION							
		s part of my application with full kno						
statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)								
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UPON CO JETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW								
	ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD				
	leview Boards Agency	Naval Council of Personnel Boards						
Support Division, St. Louis ATTN: SFMR-RBR-SL		720 Kennon Street, S.E.	SAF/MIBR	Commandant (G-WPM)				
700 Page Avenue		Rm. 309 (NDRB)	550-C Street West, Suite 40	2100 Second Street, S.W.				
St. Louis, MO 63132-5200 See http://arba.army.pentagon.mil)		Washington Navy Yard, DC 20374-5023	Randolph AFB, TX 78150-4742	Washington, DC 20593-0001				

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7. SUPPORTING DOCUMENTS (continued)

d. DOCUMENT 4: DD Form 214. Dated 08 AUG 1986

e. DOCUMENT 5: AF Form 910 f. DOCUMENT 6: DA Form 1059

g. DOCUMENT 7: DA Form 2166-8

h. DOCUMENT 8: DA Form 638

i. DOCUMENT 9: "FACTS ON AFR 39-10 DISCHARGES"

j. DOCUMENT10: attached sheet

k. DOCUMENT11: "GENERAL PURPOSE CRITIQUE" 3 pages I. DOCUMENT12: Handwritten document from 1SGT Aulerick

m. DOCUMENT13: AF Form 973

n. DOCUMENT14: DD Form 214. Dated 22 FEB 1990

8. Issues (continued)

Following the room painting incident I was reduced in rank and given two weeks extra duty. I submit that if my conduct was patterned discreditable with military authorities, then I should have received extra duty, possible correctional actions, and or reduction in rank prior to the final hours of my enlistment. Section 8, line 4 states my evaluation two months prior to my discharge as meeting standards. No mention of a pattern discreditable with military authority is mentioned.

I am currently an NCO with the Army National Guard. When I have difficulty with a soldier, it is my responsibility to help shape the soldier, not to dismiss him with a penalty that will follow him the rest of his career.

It is my belief, and I have documented support, that the command structure during my last days in the Air Force failed to meet their obligation to me as an Airman. The reduction in grade and pay, and the extra duty should have been sufficient.





DEPARTMENT OF THE AIR FORCE HEADQUARTERS 463D TACTICAL AIRLIFT WING (MAC)

DYESS AIR FORCE BASE, TEXAS 79607-5000

REPLY TO ATTN OF:

463 AMS

.18 FEB 1990

SUBJECT:

TO:

Letter of Notification

A1C

- 1. I am recommending your discharge from the United States Air Force for Misconduct -- A Pattern of Misconduct -- Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFR 39-10, Section H, paragraph 5-47b. If my recommendation is approved, your service will be characterized as General (Under Honorable Conditions) discharge. I am recommending that your service be characterized as General (Under Honorable Conditions).
- 2. My reasons for this action are:
- a. You having received a lawful order from a noncommissioned officer, then known by you to be a noncommissioned officer, to paint your dormitory room, Room 209, Building 6137, no later than 2 Feb 90, an order which it was your duty to obey, did at Dyess Air Force Base, Tx, on or about 5 Feb 90, willfully disobeyed the same, evidenced by AF Form 3070 dated 8 Feb 90.
- b. You did, at Dyess AFB, TX, on or about 14 Nov 89, remove \$25.00 from the petty fund cash box and used fictitious names in the IOU book to conceal the fact that you removed the money. as evidenced by LOR dated 16 Nov 89.
- c. You did, at Dyess AFB, TX, on or about 19 Sep 89, fail to attend a mandatory supervisor safety class, as evidenced by LOR dated 28 Sep 89.
- d. You did, at Dyess AFB, TX, on or about 6 Sep 89 and on or about 13 Jul 89, fail to maintain your dormitory room to proper standards, as evidenced by MFR dated 7 Sep 89 and LOC dated 13 Jul 89.
- e. You did, on or about 15 Dec 88, light a box of matches in the dormitory dayroom ash can which could have resulted damage to the building and personal injury, as evidenced by LOC dated 16 Dec 88.
- f. You did fail to use protective eye wear while soldering. You were observed for over two weeks soldering without using protective eye wear for which you were counselled, as evidenced by LOC dated 15 Nov 88.
- g. You did, on or about 17 Oct 88, failed to attend a scheduled motorcycle safety course, as evidenced by LOC-dated 18 Oct 88. MAC--THE BACKBONE OF DETERRENCE

F02004-00435

- h. You were, on or about 2 Aug 88 and on or about 6 May 88, in violation of the personal appearance standards of AFR 35-10 in that your mustache exceeded the limits established by AFR 35-10, as evidenced by LOC dated 2 Aug 88 and LOC dated 6 May 88.
- i. You did, on or about between 13 Jul 88 and 19 Jul 88, fail to go to your place of duty on time, as evidenced by LOR dated 20 Jul 88 and LOC dated 13 Jul 88.
- j. You did, on or about 28 Apr 88, demonstrate unacceptable duty performance in that you were to change the copilots yoke mic switch and to show the "the ropes" on how to change the switch, including what paperwork to fill out. The copilots yoke was found opened but no paperwork had been filled out. It is required that all power must be removed from the aircraft prior to opening the yoke. Had power been applied to the aircraft, personal injury could have resulted, as evidenced by LOC dated 28 Apr 88.
- k. You did, on or about 17 Dec 87, failed to report for duty on time, as evidenced by LOC dated 18 Dec 87.

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 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.

- 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 the Area Defense Counsel on IF Feb. 90 at 0930. You may consult civilian counsel at your own expense.
- 4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 20 Feb 90 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 were scheduled for an appointed at the 96 Strat Hosp in Jan 90 and have been declared medically clear on you physical exam.
- 7. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement as explained in AFR 39-10, attachment 6. A copy of AFR 39-10 is available for your use in the orderly room.

(FD2004-00435

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

-0 col

Commander, 463 AMS

3 Atch

1. Supporting Documents for Reasons for Discharge 2. Documents containing Derogatory Information Which are not Listed in Letter of Notification 3. Airman's Receipt of Letter of Notification