

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)

GRADE

AFSN/SSAN

AMN

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

A93.01

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

17 Mar 2005

CASE NUMBER

FD-2004-00464

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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

Names and votes will be made available to the applicant at the applicant's request.

ENDORSEMENT

DATE: 3/17/2005

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-2004-00464

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reason and authority for the discharge, and to change the reenlistment code.

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, change of reason and authority for discharge, and change of reenlistment code are 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.

ISSUES: The records indicated the applicant received an Article 15, three Letters of Reprimand, two Records of Individual Counseling, two Memorandums for Record, and two Air Education and Training Form 341s. His misconduct included playing a Gameboy during mandatory study time, Phase I violation, failure to go and sleeping in class on multiple occasions, and cursing in front of the commander. Applicant now notes he made mistakes while in the service, but has learned from them. The Board noted he was age 17 to 19 when his misconduct occurred, essentially the same age as other airmen who complete their enlistments without disciplinary infractions, and there was no evidence he did not know right from wrong. 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.

The applicant noted his desire to return to military service. While the Board commends the applicant on this aspiration, it is not a matter of equity or propriety with regard to his discharge and does not provide a basis that warrants 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.

Attachment:
Examiner's Brief

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

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

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Sheppard AFB, TX on 9 Mar 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 12 Apr 85. Enlmt Age: 17 5/12. Disch Age: 19 1/12. Educ: HS DIPL. AFQT: N/A. A-71, E-77, G-70, M-78. PAFSC: 2A312 - F15, F-117, RQ-1, CV-22 Avionic Systems Apprentice. DAS: 1 Oct 03.

b. Prior Sv: (1) AFRes 24 Sep 02 - 2 Jun 03 (8 months 9 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Jun 03 for 6 yrs. Svd: 0 Yrs 9 Mo 7 Das, all AMS.

b. Grade Status: Amn - 20 Jan 01 (ART 15, 20 JAN 04)
A1C - 18 Jul 03

c. Time Lost: None.

d. Art 15's: (1) 20 Jan 04, Sheppard AFB, TX - Article 92. You, who knew or should have known of your duties, on or about 8 Dec 03, were derelict in the performance of those duties in that you willfully failed to refrain from playing your Gameboy during mandatory study, as it was your duty to do. Reduction to Amn, and 14 days extra duty.
(No appeal) (No mitigation)

e. Additional: LOR, 23 JAN 04 - Phase 1 violation.
LOR, 02 DEC 03 - Failure to go.
MFR, 26 NOV 03 - Sleeping in class on 2 occasions.
MFR, 26 NOV 03 - Failure to go.
LOR, 25 NOV 03 - Sleeping in class.
AETC 341, 25 NOV 03 - Cursing in front of CC.
RIC, 18 NOV 03 - Sleeping in class.
AETC 341, 22 OCT 03 - Missed P.C.
RIC, 16 OCT 03 - Failure to obey a lawful order.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, NDSM.

i. Stmt of Sv: TMS: (1) Yrs (5) Mos (14) Das
TAMS: (0) Yrs (9) Mos (7) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 10 Nov 04.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I would like to take this time to first apologize for my irresponsible and immature decisions and ask to have the opportunity to be accepted back into the Air Force. I know I made irresponsible and immature decisions that led to my discharge from the Air Force. In the 8 months I have been away from the Air Force I have realized it was the biggest mistake I have made. I am asking that you would please give me another chance. I promise with everything I am to be the greatest Airman I can be. Thank you for your time.

ATCH

None.

25JAN05/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD2004-00464

FEB 18 2004

MEMORANDUM FOR AMN [REDACTED], 365 TRS

FROM: 365 TRS/CC

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 under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).

2. My reasons for this action are:

a. You, who knew or should have know of your duties at or near Sheppard AFB TX, on or about 21 Jan 04, were derelict in the performance of those duties in that you failed to remain in proper military uniform at all time and not wear civilian clothes while in phase I, as it was your duty to do. For this misconduct you received a Letter of Reprimand (LOR) on 23 Jan 04.

b. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 8 Dec 03, were derelict in the performance of those duties in that you willfully failed to refrain from playing your Game Boy during mandatory study, as it was your duty to do. For this misconduct you received Article 15 punishment on 20 Jan 04.

c. You did, at or near Sheppard AFB TX, on divers occasions between on or about 18 Nov 03 and on or about 2 Dec 03, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Mandatory Study. For this misconduct you received an LOR on 2 Dec 03.

d. You, who knew or should have know of your duties at or near Sheppard AFB TX, on or about 25 Nov 03, were derelict in the performance of those duties in that you failed to remain awake in class, as it was your duty to do. For this misconduct, you received an LOR on 25 Nov 03.

e. You, who knew or should have know of your duties at or near Sheppard AFB TX, on or about 18 Nov 03, were derelict in the performance of those duties in that you failed to remain awake in class, as it was your duty to do. For this misconduct you received an AF Form 174, Record of Individual Counseling, on 18 Nov 03.

f. You, who knew or should have know of your duties at or near Sheppard AFB TX, on or about 16 Oct 03, were derelict in the performance of those duties in that you failed to complete your assigned homework, as it was your duty to do. For this misconduct you received an AF Form 174 on 16 Oct 03.

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 denied enlistment in any component of the armed forces.

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 Cap [REDACTED] extension 6-2186, the ADC, at building 1638 on 23 Feb 04 at 1100 hours. 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 23 Feb 04, 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 82d Medical Group, Bldg 1200, Student Health, at 0630 on 4 Feb 04.
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 365 TRS Military Training Flight Personnel Office.
8. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]

Commander

Attachments: (listed on next page)

Attachments:

1. LOR, 23 Jan 04
2. AF Form 3070, 20 Jan 04
3. Article 15 Response, 16 Jan 04
4. AF Form 1168, TSgt [REDACTED] 10 Dec 03
5. AF Form 1168, SSgt [REDACTED] 9 Dec 03
6. AF Form 1168, SSgt [REDACTED] 9 Dec 03
7. AF Form 1168, TSgt [REDACTED] 8 Dec 03
8. LOR, 2 Dec 03
9. LOR, 25 Nov 03
10. AF Form 174, 18 Nov 03
11. AF Form 174, 16 Oct 03
12. MFR, SSgt [REDACTED] 1 Dec 03
13. MFR, SSgt [REDACTED] 1 Dec 03
14. MFR, SSgt [REDACTED] 26 Nov 03
15. MFR, SSgt [REDACTED] 26 Nov 03
16. 82 MDOS/SGOHA Memo, 12 Dec 03
17. AETC Forms 341, 22 Oct -25 Nov 03
18. MFR, A1C [REDACTED] 3 Feb 04
19. AETC Form 125A, 18 Feb 04
20. Student Training Report, 04003
21. Airman's Receipt to Notification Memorandum wd