

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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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	A93.09	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	21 Jul 2005	CASE NUMBER	FD-2004-00494
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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.

INDORSEMENT		DATE: 7/21/2005
TO:	FROM:	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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-2004-00494

GENERAL: The applicant appeals for upgrade of discharge to honorable, change the reason and authority for the discharge, and 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 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 does not contest his discharge. He states that he started having problems at home and it caused him to have problems with the people he was working with. The records indicated the applicant received two Article 15s for being derelict in the performance of his duties, failure to obey a lawful order, and for wrongfully using Flexarill and Vicodin. In addition, he also received a Vacation action under the UCMJ, two Letters of Reprimand, one Record of Individual Counseling, a Letter of Admonishment, and a verbal counseling for various acts of misconduct. 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.

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 SrA)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Lackland AFB, TX on 8 May 02 UP AFI 36-3208, para 5-50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 29 Jul 80. Enlmt Age: 18. Disch Age: 21 9/12. Educ: HS DIPL. AFQT: N/A. A-60, E-52, G-53, M-23. PAFSC: 4C051 - Mental Health Service Journeyman. DAS: 24 Jul 99.

b. Prior Sv: (1) AFRes 10 Aug 98 - 9 Feb 99 (6 months) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 10 Feb 99 for 4 years Svd: 3 Yrs 2 Mo 29 Das, all AMS.

b. Grade Status: AB - 11 Mar 02 - (Article 15, 11 Mar 02).
A1C - 12 Dec 01 - (Vacation of Suspension, 31 Jan 02).
SrA - 10 Jun 01

c. Time Lost: None.

d. Art 15's: (1) 11 Mar 02 - Lackland AFB, TX - Article 112a. You did, between on or about 22 Dec 01 and on or about 25 Dec 01, wrongfully use Flexarill and Vicodin. Article 86. You did, on or about 22 Feb 02, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to the grade of E-1. (No appeal) (No mitigation)

(2) 31 Jan 02 - Vacation, Lackland AFB, TX - Article 92. You, who knew of your duties, on or about 17 Jan 02, were derelict in the performance of your duties in that you willfully failed to refrain from smoking tobacco products, lighting incense, and maintaining dormitory hygiene standards, as it was your duty to do. Reduction to the grade of E-3. (No appeal) (No mitigation)

(3) 12 Dec 01 - Lackland AFB, TX - Article 92. You, who knew of your duties, from about 13 Nov 01 to 17 Nov 01, were derelict in the performance of those duties as specified in AFI 31-204, para 3.2, in that you willfully failed to have current registration and insurance on

your vehicle, as it was your duty to do. You, having knowledge of a lawful order issued by SSgt [REDACTED] to wit: do not drive your car until you have purchased a vehicle registration and insurance, an order which it was your duty to obey, did, on or about 17 Nov 01, fail to obey the same by wrongfully operating your vehicle without current vehicle registration or insurance. Suspended reduction to E-3. Forfeiture of \$653.00 pay per month for 2 months, restriction to base for 30 days and a Reprimand. (No appeal) (No mitigation)

- e. Additional: LOR - 07 Sep 01 - Had expired vehicle registration and was not wearing seatbelt while trying to enter base and issued a traffic citation.
- LOR - 11 Jun 01 - Failed to attend the CHCS training class for the third consecutive time. And missed a scheduled Physical Health Assessment appointment. Fifth missed appointment in one month.
- 10 Jun 01 - Traffic Citation for expired registration and not wearing seatbelt.
- RIC - 10 Jun 01 - Failed to attend the rescheduled CHCS training class and failed to show for safety briefing prior to departure on leave. Also failed to attend mandatory promotion ceremony.
- LOA - 28 Dec 00 - Went out to the parking lot and smoke area without a hat and showed disrespect toward your First Sgt, by smirking and not staying at the position of attention when told to do so.
- VBC - 20 Dec 00 - Failed to wear ribbons on his blues as required and was disrespectful and insubordinate towards supervisor.

f. CM: None.

g. Record of SV: 10 Feb 99 - 15 Jul 00 Lackland AFB 3 (HAF Dir)
 16 Jul 00 - 15 Jul 01 Lackland AFB 3 (Annual)
 16 Jul 01 - 05 Apr 02 Lackland AFB 1 (CRO) REF

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (03) Yrs (08) Mos (29) Das
 TAMS: (03) Yrs (02) Mos (29) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 13 Dec 04.
 (Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge.)

Issue 1: ISSUES ATTACHED TO BRIEF.

FD2004-00494

ATCH

1 - Applicant's Issues.

15FEB05/day

FD2004-00494

To Whom It May Concern

I write this letter in regards to my type of discharge from the air force. I joined The military when I got out of High school in 1998. When I got out of basic training I Was Stationed at Lack Land AFB San Antonio TX. I was adapting well to the military Lifestyle, and did quite well for the first two years. I then started having problems with home and it Caused me to have problems with the people I was working with. I simply had a lot on My plate and I couldn't deal with it at the time. I even went to counseling for my Problems but I was already on the way out the door. I was discharged on May 28 02 Serving for 3Yrs 4Months of my enlistment. Since my discharge I have struggled with The Fact that I wasn't able to finish. I have learned so much from that experience that now Is my time to do something about it? I have learned from this and am ready to continue On with my life. I would like my type of discharge changed from General Under Honorable to a full Honorable. The reasons for the request to change my discharge are to continue with my education through the GI Bill which I paid into when I enlisted. I also would like to come back to the Armed Forces . We all make Mistakes we're human but it Is what we do when we realize the mistake that makes us who we are?

Sincerely,

[REDACTED]



DEPARTMENT OF THE AIR FORCE
WILFORD HALL MEDICAL CENTER (AETC)
LACKLAND AFB TEXAS

FD 2004-00494

11 APR 2002

MEMORANDUM FOR AB [REDACTED]

FROM: 59 MDOS/CC

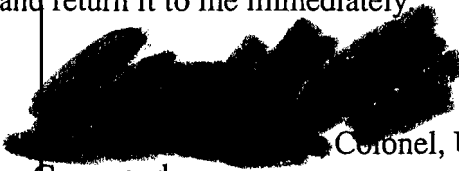
SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for a Pattern of Misconduct, specifically, Conduct Prejudicial to Good Order and Discipline. The basis for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as Under Honorable Conditions (General) or Honorable. I am recommending your service be characterized as General.
2. My reasons for this action are:
 - a. On or about 6 Dec 00, you were told by your supervisor to wear your blues with tie and ribbons for an inspection on 7 Dec 00. On 7 Dec 00 you reported to work without ribbons. When questioned by your supervisor you became disrespectful and insubordinate. As a result, you received a Verbal Counseling dated 20 Dec 00.
 - b. On or about 11 Dec 00, you went out to the parking lot and smoke area without a hat. Upon questioning by your First Sergeant, you were disrespectful toward him by smirking and not staying at the position of attention when told to do so. As a result, you received a Letter of Admonishment dated 28 Dec 00.
 - c. On or about 10 Jun 01, you were stopped by a Security Forces patrol for having an expired registration and not wearing your seatbelt. As a result, you received a Armed Forces Traffic Ticket, DD Form 1408, dated 10 Jun 01.
 - d. On or about 23 May 01, you failed to attend the CHCS training class that had already been rescheduled once due to a no show. Then, on or about 24 May 01, you failed to show for your safety briefing prior to your departure on leave. Also, on 31 May 01 you failed to attend the mandatory promotion ceremony recognizing you for your promotion to Senior Airman. As a result, you received a Record of Individual Counseling AF Form 174 dated 10 Jun 01.
 - e. On or about 6 Jun 01, investigation disclosed that you were derelict in the performance of your duties, to wit: you were scheduled for a CHCS class, which you failed to attend for the third consecutive time. Further investigation disclosed that you missed a scheduled Physical Health Assessment appointment on 8 Jun 01. This was your fifth missed appointment in one month. As a result, you received a Letter of Reprimand dated 11 Jun 01.
 - f. On or about 25 Jun 01, investigation disclosed that you were derelict in the performance of your duties, to wit: you had an expired vehicle registration and were not wearing a seatbelt while trying to enter the base. At that time you were ordered not to drive your vehicle on base without proper registration and reminded that seatbelt usage is mandatory on base and in the state of Texas at all times and you were issued a traffic citation. As a result, you received a Letter of Reprimand dated 7 Sep 01.

- g. You, who knew of your duties at or near Lackland Air Force Base, Texas, from about 13 Nov 01 to about 17 Nov 01, were derelict in the performance of those duties as specified in Air Force Instruction 31-204, paragraph 3.2, dated 14 Jul 00, in that you willfully failed to have current registration and insurance on your vehicle, as it was your duty to do. Also, you, having knowledge of a lawful order issued by SSgt [REDACTED] to wit: do not drive your car until you have purchased a vehicle registration and insurance, an order which it was your duty to obey, did, at or near Lackland Air Force Base, Texas, on or about 17 Nov 01, fail to obey the same by wrongfully operating your vehicle without current vehicle registration or insurance. As a result, you received an Article 15 dated, 19 Dec 01. Your punishment was a suspended reduction to the grade of E-3 and forfeiture of \$653.00 pay per month for two months, a restriction to Lackland Air Force Base, Texas, for 30 days and a reprimand.
- h. You, who knew of your duties at or near Lackland Air Force Base, Texas, on or about 17 Jan 02, were derelict in the performance of your duties in that you willfully failed to refrain from smoking tobacco products, lighting incense, and maintaining dormitory hygiene standards, within building 1400, room 124, as it was your duty to do. As a result, you received a vacation of your suspended reduction to the grade of E-3, dated 31 Jan 02.
- i. You, did, at or near Lackland Air Force Base, Texas, between on or about 22 Dec 01 and on or about 25 Dec 01, wrongfully use Flexarill and Vicodin. Also, you, did, at or near Lackland Air Force Base, Texas, on or about 22 Feb 02, without authority, fail to go at the time prescribed to your place of duty, to wit: the Commander Support Staff, 59th Medical Operations Group, building 4550. As a result, you received an Article 15 dated, 19 Mar 02. Your punishment was a reduction to the grade of E-1, with a new date of rank of 11 Mar 02.
3. Copies of the document 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. 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.
4. Military legal counsel has been obtained for you. I have made an appointment for you to consult SSgt [REDACTED] at building number 1000, on 11 Apr 02 at 1415 hours. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 3 workdays 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 statement 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 building 6612, rm. 502, on Mon - Feb at 1300 hours, with your medical, immunization, and dental records 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 at the Commander's Support Staff.

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



Colonel, USAF

Commander

Attachments:

- 1. Article 15 dated 19 Mar 02
- 2. AF Form 366 dated 31 Jan 02
- 3. Article 15 dated 19 Dec 01
- 4. Letter of Reprimand dated 7 Sep 01
- 5. Letter of Reprimand dated 11 Jun 01
- 6. AF Form 174 dated 10 Jun 01
- 7. DD Form 1408 dated 10 Jun 01
- 8. Letter of Admonishment dated 28 Dec 00
- 9. Verbal Counseling dated 20 Dec 00