

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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	
ISSUES A92.21 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				
HEARING DATE 10 Aug 2005		CASE NUMBER FD-2004-00496			TAPE RECORDING OF PERSONAL APPEARANCE					
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE 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>										
SIGNATURE OF RECORDER					SIGNATURE OF BOARD PRESIDENT					
INDORSEMENT					DATE: 8/10/2005					
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-2004-00496

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:

Issue 1. The records indicated the applicant received an Article 15, five Letters of Reprimand, and six Records of Individual Counseling for 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.

Issue 2. 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 March 24, 1997) 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.

Issue 3. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 21 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

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

(Former AMN) (HGH AMN)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Luke AFB, AZ on 8 Dec 98 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 26 Jan 77. Enlmt Age: 19 10/12. Disch Age: 21 10/12. Educ: HS DIPL. AFQT: N/A. A-28, E-47, G-33, M-57. PAFSC: 2T331 - Special Purpose Vehicle & Equipment Maintenance Apprentice. DAS: 5 Sep 97.

b. Prior Sv: (1) AFRes 26 Nov 96 - 11 Mar 97 (3 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 12 Mar 97 for 4 yrs. Svd: 1 Yrs 8 Mo 27 Das, all AMS.

b. Grade Status: Amn - 12 Sep 97

c. Time Lost: None.

d. Art 15's: (1) 6 Oct 98, Luke AFB, AZ - Article 86. You, did, on or about 18 Sep 98, without authority, fail to go at the time prescribed to your place of duty. Suspended reduction to AB. Thirty days correctional custody. (No appeal) (No mitigation)

e. Additional: LOR, 04 NOV 98 - Disobeying a direct order.
LOR, 02 JUL 98 - Failure to go.
LOR, 29 JUN 98 - Sexual Harassment and assault.
LOR, 13 MAR 98 - Late for duty.
RIC, 10 MAR 98 - Failure to complete CDC.
LOR, 05 MAR 98 - Failure to go.
RIC, 05 MAR 98 - Leaving toolbox unsecure.
RIC, 22 JAN 98 - Insubordination.
RIC, 08 DEC 97 - Disobeying a direct order.
RIC, 08 DEC 97 - Late for duty.
RIC, 01 DEC 97 - Late for duty.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: AFTR, AFOUA.

i. Stmt of Sv: TMS: (2) Yrs (0) Mos (13) Das
TAMS: (1) Yrs (8) Mos (27) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 13 Dec 04.
(Change Discharge to Honorable)

Issue 1: Sir or Mam (sic), I request an upgrade of my discharge (sic) I received a general under honorable conditions, please upgrade to an honorable, in order that I may pursue my educational benefits. To continue my education and be a productive citizen in Society.

I was under considerable (sic) amount of pressure (sic) when my mother was very ill, due to a broken back. My world turned upside down and focus was distorted.

Now I have matured to understand the mistakes I made.

Please reconsider in review my overall performance (sic) and upgrade my discharge. Please. Thank you for your kind consideration.

P.S. After the discharge from the Air Force I was mobilized (sic) with National Guard (sic) on Active Army for 18 months.

Thank you for your time.

ATCH

1. Three DD Forms 214.

11FEB05/ia

DEPARTMENT OF THE AIR FORCE
56th Transportation Squadron (AETC)
Luke Air Force Base Arizona

12 NOV 1998

MEMORANDUM FOR AMN [REDACTED]

FROM: 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 AFI 36-3208, Section H, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable, general, or under other than honorable conditions. I am recommending that your service be characterized as general.

2. My reasons for this action are:

a. On 29 Oct 98, you failed to obey a direct order given to you by your First Sergeant. This is evidenced by a Letter of Reprimand, dated 4 Nov 98.

b. On 18 Sep 98, you failed to report to work on time. This is evidenced by an Article 15, dated 6 Oct 98.

c. On 10 Jul 98, you grabbed Amn [REDACTED] by the arm and refused to let go of her. This is evidenced by a Letter of Reprimand, dated 29 Jun 98.

d. On 2 Jul 98, you failed to report to work on time. This is evidenced by a Letter of Reprimand, dated 2 Jul 98.

e. On 12 Mar 98, you failed to report to work on time. This is evidenced by a Letter of Reprimand, dated 13 Mar 98.

f. On 10 Mar 98, you failed to complete volume 2 of your CDCs on time. This is evidenced by a Record of Individual Counseling, dated 10 Mar 98.

g. On 5 Mar 98, you failed to report to work on time. This is evidenced by a Letter of Reprimand, dated 5 Mar 98.

h. On 5 Mar 98, you were derelict in your duties by leaving your toolbox unsecured while you went to lunch. This is evidenced by a Record of Individual Counseling, dated 5 Mar 98.

i. On 15 Jan 98, you were disruptive during a training class. This is evidenced by a Record of Individual Counseling, dated 22 Jan 98.

j. On 8 Dec 97, you failed to complete your CDCs on time. This is evidenced a Record of Individual Counseling, dated 8 Dec 97.

k. On 8 Dec 97, you failed to report to work on time. This is evidenced by a Record of Individual Counseling, dated 8 Dec 97.

l. On 25 Nov 97, you failed to report to work on time. This is evidenced by a Record of Individual Counseling, dated 1 Dec 97.

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 a higher authority will decide whether you will be discharged or retained in the Air Force, and if discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in the Air Force and any special pay, bonus, or education assistance funds may be subjected to recoupment.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. An appointment for you to consult the Area Defense Counsel at Building 1150, Suite 3015, Luke AFB, AZ, extension 6701 has been scheduled for 0930 at 13 Nov 98. You may consult civilian counsel at your own expense.

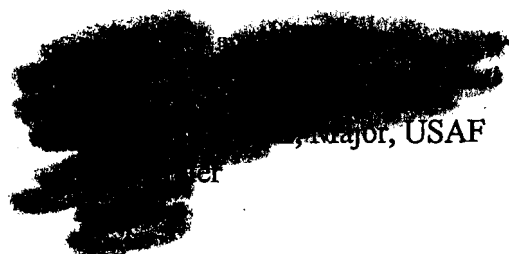
5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 18 Nov 98 unless you receive an extension for good cause shown. I will send them to the separation authority.

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 must retrieve your medical records from the 56th Medical Group Hospital Outpatient records and immediately report to Physical Exams, Building 810, with your medical records and your copy of this AFI 36-3208 discharge package for medical review and/or examination.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act Statement. A copy of AFI 36-3208 is available for your use in your unit orderly room.

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



Attachments:

1. Letter of Reprimand, dated 4 Nov 98
2. AF Form 3070, dated 6 Oct 98
3. Submission of Matters, dated 30 Sep 98
4. Letter of Reprimand, dated 2 Jul 98
5. Response to Letter of Reprimand
6. Letter of Reprimand, dated 29 Jun 98
7. Response to Letter of Reprimand, dated 11 Jul 98
8. Letter of Reprimand, dated 13 Mar 98
9. AF Form 174, dated 10 Mar 98
10. Letter of Reprimand, dated 5 Mar 98
11. AF Form 174, dated 5 Mar 98
12. AF Form 174, dated 22 Jan 98
13. AF Form 174, dated 8 Dec 97
14. AF Form 174, dated 8 Dec 97
15. AF Form 174, dated 1 Dec 97