

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
<div style="border: 2px solid red; height: 40px; width: 100%;"></div>									X
									X
									X
									X
									X

ISSUES A93.17 A93.09	INDEX NUMBER A67.10 A62.00	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 15 Jul 2005	CASE NUMBER FD-2005-00002				

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.

INDORSEMENT		DATE: 7/18/2005
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-2005-00002

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 does not contest his discharge. He reaffirms the fact that he smoked marijuana before enlisting in the Air Force but then admitted to it a year later. The records indicated the applicant received an Article 15 for making a false statement about never using marijuana on his enlistment papers and for failing to refrain from drinking alcohol while under the age of 21. In addition, he also received three Letters of Reprimand, and four Records of Individual Counseling for various 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

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Eielson AFB, AK on 7 Jun 02 UP AFI 36-3208, para 5.13.4 and 5.49 (Fraudulent Entry Into Military Service and Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 25 Sep 81. Enlmt Age: 18 10/12. Disch Age: 20 8/12. Educ: HS DIPL. AFQT: N/A. A-65, E-79, G-72, M-80. PAFSC: 2A131 - Avionic Sensors Maintenance Apprentice. DAS: 28 Jul 01.

b. Prior Sv: (1) AFRes 3 Aug 00 - 17 Oct 00 (2 months 15 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 18 Oct 00 for 6 yrs. Svd: 1 Yrs 7 Mo 21 Das, all AMS.

b. Grade Status: Amn - 10 May 02 (Article 15, 10 May 02)
A1C - 01 Dec 00

c. Time Lost: None.

d. Art 15's: (1) 10 May 02, Eielson AFB, AK - Article 83. You did, at or near Little Rock AFB, AR, on or about 3 Aug 00, 25 Aug 00, and 18 Oct 00, by means of knowingly false representations that you had never used marijuana, when in fact you had used marijuana, procure yourself to be enlisted as an airman basic in the United States Air Force, and did thereafter, at Lackland AFB, Texas, receive pay under the enlistment so procured. You, who knew of your duties at or near Eielson AFB, AK, on or about 5 May 02, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of 21, as it was your duty to do. Reduction to Airman, 21 days restriction, and 14 days extra duty. (No appeal) (No mitigation)

e. Additional: LOR, 03 APR 02 - Failure of Volumn III test for CDC.
RIC, 05 MAR 02 - Failure to complete CDC on time.
RIC, 31 JAN 02 - Improper maintenance of government quarters.
RIC, 18 DEC 02 - Improper maintenance of personal hygiene.
RIC, 03 DEC 01 - Improper storage of hazardous material.
LOR, 17 JUL 01 - Failure to go.

LOR, 20 FEB 01 - Reporting for duty in the wrong uniform.

- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR, NDSM.
- i. Stmt of Sv: TMS: (1) Yrs (10) Mos (5) Das
TAMS: (1) Yrs (7) Mos (21) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02 Dec 04.
(Change Discharge to Honorable)

Issue 1: I received a General Discharge for smoking marijuana before enlistment then admitting to it later on while in the Air Force. Therefore "Fraudulent Entry into the military shows on my DD 214 long form. After being discharged with my present discharge status "General Honorable (sic) Conditions", I have been unable to obtain gainfull (sic) employment as most employers in my area require a DD 214 with an "Honerable (sic) status" only which has created an ongoing hardship for me. It has been over 2 years since my discharge and I have no crininal (sic) record at all. Attended college, and am continuing to attempt to improve on my present situation. I am respectfully requesting discharge status upgrade to "Honorable" (sic).

ATCH

None.

22FEB05/ia

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

FD 2805-00002



21 May 02

MEMORANDUM FOR AMN [REDACTED], 354 MXS, PACAF

FROM: 354 MXS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Fraudulent Entry and Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.13.4, Fraudulent Entry, and 5.49, Minor Disciplinary Infractions. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are as follows:

a. On or about 20 Feb 01, you reported to your duty location wearing an incorrect uniform. For this infraction, you received a Letter of Reprimand, dated 20 Feb 01, and an Unfavorable Information File was established (Atch 1).

b. On or about 14 and 15 Jul 01, you failed to report to your assigned duty location. On 15 Jul 01, you violated curfew. For these infractions, you received a Letter of Reprimand, dated 17 Jul 01, that was placed in your already existing Unfavorable Information File (Atch 2).

c. On or about 3 Dec 01, you improperly stored a hazardous material in your locker. For this infraction, you received a Record of Individual Counseling, dated 3 Dec 01 (Atch 3).

d. On or about 18 Dec 01, you were found to be emitting an offensive odor in violation of AFI 36-2903. For this infraction, you received a Record of Individual Counseling, dated 18 Dec 01 (Atch 4).

e. On or about 23 Jan 02, your living quarters was in total disarray. For this infraction, you received a Record of Individual Counseling, dated 31 Jan 02 (Atch 5).

f. Between 9 Jun 02 and 4 Feb 02, and again on 4 Mar 02, you failed to complete your CDCs on time. For this infraction, you received a Record of Individual Counseling, dated 5 Mar 02 (Atch 6).

g. On or about 1 Apr 02, you failed your CDC Volume III Review Exercise after being given an additional 30 days to prepare. For this infraction, you received a Letter of Reprimand, dated 3 Apr 02 (Atch 7).

h. On or about 3 Aug 00, 25 Aug 00, and 18 Oct 00, you made false presentations concerning your prior use of marijuana and fraudulently enlisted in the Air Force. On 5 May 02, you drank alcohol while under the age of twenty-one years. For these infractions, you received nonjudicial punishment, dated 10 May 02 (Atch 8).

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 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 any special pay, bonus, or education assistance funds may be subject to recoupment.

4. 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 Capt [REDACTED], Area Defense Counsel, Building 3112, Room 155, Eielson AFB, Alaska, on 21 May 02 at 1530. 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 (3 duty days) 24 May 02/1430, 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 statements 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 the Physical Examination Section, 354th Medical Group, Building 3349, at 0800 on 21 May 02 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 in your orderly room.

[REDACTED]
Maj, USAF
Commander, 354 MXS

Attachments:

1. Ltr of Reprimand, dtd 20 Feb 01 (2 pgs) w/AF Form 1058 and AF Form 1137
2. Ltr of Reprimand, dtd 17 Jul 01 (2pgs) w/ AF Form 1058
3. AF Form 174, dtd 3 Dec 01
4. AF Form 174, dtd 18 Dec 01
5. AF Form 174, dtd 31 Jan 02
6. AF Form 174, dtd 5 Mar 02
7. Ltr of Reprimand, dtd 3 Apr 02
8. AF Form 3070, dtd 10 May 02