

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

.E 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				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">YES</td> <td style="width:50%;">No</td> </tr> <tr> <td></td> <td align="center">X</td> </tr> </table>	YES	No		X		
YES	No					
	X					

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
					X
	X				
	X				
	X				

ISSUES	A94.06	INDEX NUMBER	A67.10	EXHIBITS SUBMITTED TO THE BOARD														
				<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td>2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td>3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td>4</td><td>BRIEF OF PERSONNEL FILE</td></tr> <tr><td></td><td>COUNSEL'S RELEASE TO THE BOARD</td></tr> <tr><td></td><td>ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td></tr> <tr><td></td><td>TAPE RECORDING OF PERSONAL APPEARANCE</td></tr> </table>	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
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HEARING DATE	CASE NUMBER
28 Jul 2005	FD-2005-00005

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.

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INDORSEMENT		DATE: 8/1/2005
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

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: The Board grants the requested relief.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, based upon the record and evidence provided by applicant, the Board finds the applicant's reason and authority for discharge inequitable.

ISSUE: Applicant did not submit any issues. The records indicated the applicant received an Article 15 for failure to go and for not wearing the required uniform to a mobility exercise. He received a Vacation action under the UCMJ for driving while his license was suspended. In addition, he received three Letters of Reprimand and one Letter of Counseling for misconduct. The Board did not condone the misconduct, although minor in nature, and the fact that the applicant was two months shy of completing his 4 year enlistment, and his good EPR's, decided that an Honorable discharge would be more 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.

However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge under the provisions of Title 10, USC 1553.

Attachment:
Examiner's Brief

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 Charleston AFB, SC on 10 Aug 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 20 Jun 80. Enlmt Age: 20 3/12. Disch Age: 24 2/12. Educ: HS DIPL. AFQT: N/A. A-63, E-67, G-66, M-47. PAFSC: 3E452 - Liquid Fuel Systems Maintenance. DAS: 23 May 02.

b. Prior Sv: (1) AFRes 23 Sep 00 - 2 Oct 00 (10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 3 Oct 00 for 4 years. Svd: 03 Yrs 10 Mo 18 Das, all AMS.

b. Grade Status: A1C - 27 Apr 04 (Vacation of Article 15, 25 Apr 04)
SrA - 03 Oct 03
A1C - 03 Feb 02
Amn - 03 Apr 01

c. Time Lost: None.

d. Art 15's: (1) 25 Jun 04 - Vacation, Charleston AFB, SC - Article 92. You, who knew or should have known of your duties, on or about 19 June 04, were derelict in the performance of those duties in that you willfully failed to refrain from driving while your license was suspended, as it was your duty to do. Reduction to A1C. Suspended forfeiture of \$250 pay. Fourteen days extra duty. (Appeal/Denied) (No mitigation)

(2) 27 Apr 04 - Charleston AFB, SC - Article 86. You, did on or about 1 Apr 04, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties, on or about 1 Apr 04, were derelict in the performance of those duties in that you willfully failed to wear the required uniform to the mobility exercise, as it was your duty to do. Suspended reduction to A1C and Suspended forfeiture of \$250 pay. Fourteen Days extra duty. (Appeal/Denied) (No mitigation)

e. Additional: LOR, 25 SEP 03 - Failed dormitory room inspection.
LOR, 25 SEP 03 - Failure to go to appointed place of duty.

LOR, 01 OCT 02 - Dereliction of duty.
 LOC, 17 SEP 02 - Misconduct, failure to obey an order or
 regulation.

f. CM: None.

g. Record of SV: 03 Oct 00 - 26 Nov 02 Charleston AFB 4 (Initial)
 27 Nov 02 - 07 Jan 04 Charleston AFB 4 (Annual)

h. Awards & Decs: AFAM, AFTR, NDSM, AFOUA.

i. Stmt of Sv: TMS: (03) Yrs (10) Mos (28) Das
 TAMS: (03) Yrs (10) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 27 Dec 04.
 (Change Discharge to Honorable)

Issue 1: NO ISSUES SUBMITTED.

ATCH

1. Printout w/DD Form 2366-1, GI Bill Benefits.
2. Two copies of DD Form 214.
3. Notification Memorandum.
4. Notification Acknowledgement.
5. E-Mail.
6. Response to offer of Nonjudicial Punishment Proceedings.
7. Copy of Desert Beef Patch.
8. Two Certificates of Appreciation.
9. Armed Forces Expeditionary Medal.
10. Superior Performance Certificate.
11. Superior Performer Congratulatory Letter.
12. Three vehicle repair receipts
13. Two copies of Promissory Notes.
14. Photo of tatto removed.
15. Letter of Counseling.
16. Comments concerning Letter of Counselling.
17. Response to Letter of Reprimand.
18. Noted from First Sergeant's Desk.
19. Response to Letter of Reprimand.
20. Two letters of Support.
21. Letter of Reprimand.

22FEB05/day



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 437TH AIRLIFT WING (AMC)

FD2004-00005

2 AUG 04

MEMORANDUM FOR A1C [REDACTED] 437 CES

FROM: 437 CES/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Misconduct: 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 may be characterized as an Honorable Discharge, Under Honorable Conditions (General) Discharge, or an Under Other Than Honorable Conditions Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reasons for this action are:

a. On or about 1 Apr 04, you failed to go to your appointed place of duty. Moreover, on 1 April 2004, you were derelict in the performance of your duties in that you willfully failed to wear the required uniform to your mobility exercise. For these offenses, you received an Article 15, dated 3 May 04 (Attachment A);

b. On or about 19 Sep 03, you failed to go to your appointed place of duty. For this misconduct, you received a Letter of Reprimand, dated 25 Sep 03 (Attachment B);

c. On or about 17 Sep 03, you failed your dormitory room inspection. For this misconduct, you received a Letter of Reprimand, dated 25 Sep 03 (Attachment C);

d. On or about 29 Aug 02, it was determined that you had placed a tattoo on your neck. This action is in violation of AFI 36-2903 and is punishable as failure to obey an order or regulation, under Article 92 of the UCMJ. For this misconduct, you received a Letter of Counseling, dated 13 Sep 02 (Attachment D); and

e. On or about 24 Sep 02, you were derelict in the performance of your duties by willfully giving a false official statement to your First Sergeant. You told them that you performed your bay orderly detail, when in fact; you obtained leave instead of performing your detail. For this misconduct, you received a Letter of Reprimand, dated 1 Oct 02 (Attachment E).

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising Special Court-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the United States 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. The separation authority will make the findings and recommendations required under 10 U.S.C. Section 2005(g).

4. You have the right to consult legal counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult with the Area Defense Counsel, Captain [redacted] at Bldg 503, on Aug 6, at 1000 hours. 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 5th Aug 2004, 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 legal 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 437th Medical Group, Hill Blvd, today Aug 3 2004, at 1030 hours for the examination.

8. You have been schedule for a Transition Assistance Briefing with [redacted] on 6 August 2004, at 1000 hours in the Family Support Center, Bldg 255.

9. You have been scheduled for a separation briefing on 2 August 2004 at 1500 hours, at Personnel Relocations, Bldg 503.

10. 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 unit orderly room.

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

[Redacted Signature]

LTCOL, USAF

Commander

Attachments:

- A. AF Form 3070, dated 3 May 04
- B. LOR, dated 25 Sep 03
- C. LOR, dated 25 Sep 03
- D. LOC, dated 13 Sep 02
- E. LOR, dated 1 Oct 02
- F. Receipt of Notification Memorandum
- G. Airman's Statement (Optional)
- H. Recoupment Statement