

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 | UOHC | OTHER | DENY |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |
| | | | | | X |

| | | | | |
|-----------------------------|-----------------------------------|--|--|--|
| ISSUES A93.09 | 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 28 Jul 2005 | CASE NUMBER FD-2005-00022 | |
|---|--|--|

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: 8/17/2005 |
|--------------------|------------------------|

| | |
|--|---|
| 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-2005-00022

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 contends discharge was inequitable because it was too harsh. He states that the accuracy of the reason for separation, which is misconduct, is wrong. The records indicated the applicant received two Letters of Reprimand, two Letters of Counseling, a Letter from the commander, and a memorandum for Record for various acts of misconduct to include failure to follow directions by not reporting as directed, failing to return to duty station after being released from the medical center, failed to show for a scheduled appointment, failed to comply with military standards and for repeatedly violating a restraining order. 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 A1C) (HGH A1C)

MISSING DOCUMENTS

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Nellis AFB, NV on 18 Jun 96 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: 1 Oct 71. Enlmt Age: 18 10/12. Disch Age: 24 8/12. Educ: HS DIPL. AFQT: N/A. A-00, E-00, G-99, M-00. PAFSC: 2T231 - Air Transportation Apprentice. DAS: 10 Oct 95.

b. Prior Sv: USAF Academy Preparatory School 15 Aug 90 - 26 Jun 91 (10 months, 12 Days). USAF Academy 27 Jun 91 - 30 Aug 94 (03 Years, 2 Months, 3 Days).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 11 Jul 95 for 2 years. Svd: 00 Yrs 11 Mo 07 Das, all AMS, of which AMS is 00 Yrs 11 Mos 04 Das (ex. 03 Das lost time).

b. Grade Status: None.

c. Time Lost: 30 Apr 96 thru 2 May 96 (3 days).

d. Art 15's: None.

e. Additional: LOR, 13 MAY 96 - Failed to report to MSgt [redacted] office as directed, to sign the acknowledgement of AF Form 1058, that was read to you on 3 May 96. It took MSgt [redacted] three attempts to have you report to his office.

LOR, 03 MAY 96 - Failed to return to duty station after release from Travis AFB/David Grant Medical Center. Failure to return to duty placed in absent without leave status.

RIC, 12 APR 96 - Failed to show at a scheduled appointment.

LTR, 04 MAR 96 - Repeatedly violated a permanent restraining order issued by the civilian courts and had a physical altercation with said individual.

RIC, 15 DEC 95 - Failed to comply with military standards by showing disrespect for authority, working on personal matters during duty

hours, and failing to go to a scheduled appointment on time.
MFR, 05 MAY 94 - Failed to Respond to 4th Notice for Education Delay Certification Letter.

- f. CM: None.
- g. Record of SV: None.
- h. Awards & Decs: AFTR, NDSM, AFLSA, SAEMR.
- i. Stmt of Sv: TMS: (04) Yrs (11) Mos (19) Das
TAMS: (04) Yrs (11) Mos (19) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 08 Jan 05
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge.)

Issue 1: ISSUES ATTACHED TO BRIEF.

ATCH

- 1. Applicant's Issues.

1MAR05/day

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved OMB No. 0704-0004 Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY X AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) c. GRADE/RANK AT DISCHARGE E-3 d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 19960618

4. DISCHARGE CHARACTERIZATION RECEIVED (X one)

HONORABLE X GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS BAD CONDUCT (Special court-martial only) UNCHARACTERIZED OTHER (Explain)

5. BOARD ACTION REQUESTED (X one)

X CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO:

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)

After leaving the military, I returned to school and completed a mechanical engineering degree. After working in industry for 4 years and because of the needs of the United States, I am compelled to apply for government service jobs in the effort to use my degree to endeavor to keep our borders safe. I have matured tremendously with the educational and industrial training I have received and look forward to having an Honorable Discharge in the effort to allow me the chance to serve and protect.

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)

9. TYPE OF REVIEW REQUESTED (X one)

X CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD. I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA. I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.) N/A b. TELEPHONE NUMBER (Include Area Code) c. E-MAIL d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking a box below. SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Indicate any change in address.) b. TELEPHONE NUMBER (Include Area Code) c. E-MAIL d. FAX NUMBER (Include Area Code)

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.) CASE NUMBER (Do not write in this space.)

a. SIGNATURE (11 above) b. DATE SIGNED - REQUIRED (YYYYMMDD) 8 January 2005 FD2005-00022

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

The reason for my separation on my DD214 states "Misconduct", yet I dispute the accuracy of this. The circumstances regarding this disposition are regarding my missing a medevac flight to return to my post at Nellis. I missed the flight because I was still in the authority of the medical wing. Upon missing the flight, I took quarters and the first opportunity the next morning called my sergeant to inform him of my missed flight and that my ticket (and personal bag) was stolen the night before. I then went to the SATO travel and received a flight ticket to return. It was my understanding that this was what I was supposed to do per my conversation with my sergeant at the time. I had 25 days of accrued leave at the time and clearly there was no ulterior motive to become AWOL. I understood after that my commanding officer was in contact with my Academy AOC regarding a card I sent to a former girlfriend and send inaccurate and untrue documentation regarding me. This information was the catalyst to my dismissal from the Air Force by my commander. I was discharged with extreme prejudice as I was an exemplary airman at Nellis and stand by all my actions. I did my duty and always with pride. The missing of the flight was due to poor timing and not of my own accord, yet it was blamed on me and I was ordered to sign a letter of reprimand upon my return. I explained the situation again and refused to sign the letter of reprimand because it was wholly incorrect. I was given a subsequent letter of reprimand for that action.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

My time in the military was a growing process. I was enlisted but alienated as an enlisted airman because of my prior time at the United States Air Force Academy. I was treated as an outsider the entire time and naturally was very lonely. I made an immature decision to send a card to an ex-girlfriend at the Academy. It was a mistake which became the catalyst for my discharge. This after already starting to pursue special training such as the completion of Air Combat Command Pre-Ranger training as well as U.S. Army Airborne School in the efforts to have the chance to pursue a career in the military with Special Operations. There are no guarantees in that career but I was hoping to simply have a chance. Being lonely is no excuse for writing the card and I stand by the fact that I did send it and that I accept responsibility for my mistake. Yet it was simply a foolish mistake which I hope after review is seen as something that does not justify nor warrant my denial of an Honorable Discharge.

I was disenrolled from the United States Air Force Academy for academic reasons. I have resolved my academic deficiency and completed a Bachelor's degree in Mechanical Engineering.

I have had ample time to reflect on my decision to request this change and I know in my heart and soul that my 5 years of service were always served with the highest regard of duty, honor and country. I took the Honor Oath twice, not to lie, cheat or steal, nor tolerate those among us who do - and have always lived by those words from those days on.

My humble gratitude and deep appreciation for your consideration. Your consideration is not in vain. This request is important to me in both principle as well as in action. I am seeking to be employed in a field where I can help maintain the safety of our borders by using my expertise in the engineering field as well as my sense of duty. I can make a difference if given the opportunity, but I am required to voice the inaccuracies of my discharge at this time. They were unfair and unjust and I only wish them corrected.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

| | |
|---|--|
| <p style="text-align: center;">ARMY</p> <p>Army Review Boards Agency Support Division, St. Louis 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)</p> | <p style="text-align: center;">NAVY AND MARINE CORPS</p> <p>Naval Council of Personnel Boards 720 Kennon Street, S.E. Room 309 (NDRB) Washington Navy Yard, DC 20374-5023</p> |
| <p style="text-align: center;">AIR FORCE</p> <p>Air Force Review Boards Agency SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742</p> | <p style="text-align: center;">COAST GUARD</p> <p>U.S. Coast Guard Commandant (G-WPM) 2100 Second Street, S.W. Room 5500 Washington, DC 20593</p> |

FD 2005 00022

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE ACADEMY
USAF ACADEMY, COLORADO 80840-5080

SPECIAL ORDER
AF-337

30 June 1995

By direction of the President, Cadet First Class [REDACTED], SSAN [REDACTED] is relieved from assignment, 49th Sq, 5th Group, Class of 1995 and is honorably separated involuntarily from appointment as a cadet, USAFA, effective 30 August 1994.

SEPARATION AUTHORITY: AFI 36-2020, OL-C USAFA Memorandum, 30 August 1994. Upon separation from cadet status, individual will be called to active duty involuntarily in the grade of E-3 (A1C), for a period of two years, per 10 USC 9348b.

SECURITY CLEARANCE: SEC/NAC

TDY ENROUTE: Member is assigned to 345 Training Sq., Lackland AFB, TX 78236, while attending technical training CRS L3ABR2T231-000, Air Transportation Apprentice. Member will report not later than 11 July 1995. Class Start Date: 12 July 1995. During duty hours, member will report to BLDG 7001, 393 MSSQ Student Reception Center, between 0700-1600. After duty hours and weekends report to unit of assignment for quarters assignment and additional information. Graduation Date: 21 August 1995. Per JFTR PARA U4102(E), member is not authorized per diem at TDY location. TDY PAS: LA0JFGY8. TRQI: AJ10. TLN: LA0J500247.

ASSIGNMENT: Member is assigned to 62 Aerial Port Sq, McChord AFB, WA 98438.

GAINING MPF: 62 MSSQ, McChord AFB, WA 98438. REPORT NOT LATER THAN: 28 August 1995.

GPAS CODE: MH1LFCPC. P/CAFSC: 2T231.

AFI 36-2110, HQ AFMPC/DPMAPE.

OTHER INSTRUCTIONS: Report to servicing MPF upon arrival. Traveler is required to submit a travel voucher within 5 days after completion of travel. Turn in all promotional items with travel voucher. Separation travel allowance was paid from this station to HOR per Special Order AC-145 dated 14 Feb 94, HQ USAFA/DPYQ. Travel pay to next duty station is authorized within the restrictions of the JFTR. Pursuant to AFI 32-6001, you will report to the Base Housing Referral Office before entering into any rental, lease, or purchase agreement for off-base housing.

PCS FUND CITATIONS: 5753500 305 5861.0* 503725 NTS 5753500 325 5878.0N 503725

CIC: 4 5 548 0070 503725 TAC: F58C ATAC: F58C1.0*

HOR: Denver, CO

MAILING ADDRESS: [REDACTED]

Certifying Official

FOR THE SUPERINTENDENT



[REDACTED] Captain, USAF
Chief, Cadet Personnel Division

DISTRIBUTION
AF

SO AF-337



DEPARTMENT OF THE AIR FORCE
99TH TRANSPORTATION SQUADRON (ACC)
NELLIS AIR FORCE BASE, NEVADA

16 MAY 1996

MEMORANDUM FOR A1C [REDACTED], 99 TRNS

FROM: CC

SUBJECT: Notification Memorandum - Administrative Discharge Under AFI 36-3208

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 may be characterized as honorable, general, or under other than honorable conditions. I am recommending your service be characterized as general.

2. My reasons for this action are:

a. On or about 10 May 96, you failed to report to MSgt [REDACTED] office, as directed, to sign the acknowledgment of AF Form 1058, that was read to you on 3 May 96. In response you stated you were waiting for a call from the Area Defense Counsel (ADC). MSgt [REDACTED] instructed you to call him back after making your arrangements with the ADC. It took MSgt [REDACTED] three attempts to have you report to his office. In response, you stated you would not report to his office until you have spoken to the ADC. For your actions you were given a letter of reprimand (LOR) on 13 May 96, for which you did not acknowledge receipt to, as evidenced by the 1st Ind to your LOR.

b. On or about 30 Apr 96, you failed to return to your duty station (Nellis AFB NV) after being released from Travis AFB/David Grant Medical Center. Your failure to return to duty placed you in absent without leave status. For your action you received a letter of reprimand on 3 May 96;

c. On or about 11 Apr 96, you failed to show at a scheduled appointment. For your action you received a record of individual counseling on 12 Apr 96;

d. Between on or about 26 May 94 and on or about 26 Feb 96, you failed to refrain from contacting [REDACTED] as ordered by the County Court, County of El Paso/Teller Colorado on 26 May 94;

e. On or about 15 Dec 95, you failed to comply with military standards by showing disrespect for authority, working on personal matters during duty hours, and failing to go to a scheduled appointment on time. For your actions you received a record of individual counseling on 15 Dec 95; and

f. On or about 5 May 95, you failed to respond to the fourth notice requesting the return of your Educational Delay Certification Letter confirming enrollment in a college or university, as evidenced by HQ USAFA/DPY memorandum on 5 May 95.

3. Additional derogatory comments, not used as the basis for discharge but used to determine whether you should be discharged and, if discharged, whether probation and rehabilitation (P&R) is appropriate: On or about 6 May 96, you were evaluated by Capt [REDACTED], Staff Clinical Psychologist, at Nellis Federal Hospital, Nellis Air Force Base, Nevada. Capt [REDACTED] diagnosed you as having an narcissistic Personality Disorder (Axis II). She further stated that your disorder was determined to be sufficiently severe so as to impair your ability to function effectively in the military environment.

4. 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 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.

5. 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 the Area Defense Counsel at Bldg 625 on **17 May 96** at **0830** hours. You may consult civilian counsel at your own expense.

6. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by **123 MAY 1996** at **1530** hours unless you request and receive an extension for good cause shown. I will send them to the separation authority.

7. 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.

8. You have previously been scheduled for a medical examination at the 99th Medical Group on **9 May 96** at **0800**.

9. 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 Unit Orderly Room.

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


Commander [REDACTED], Maj, USAF

Attachments:

1. LOR, 13 May 96, w/atchs
2. LOR, 6 May 96, w/atchs
3. ROIC, 12 Apr 96
4. HQ USAFA/JA Memo, 4 Mar 96, w/atchs
5. ROIC, 15 Dec 95
6. HQ USAFA/DPY Memo, 5 May 95, w/atchs
7. Mental Health Eval, 6 May 96