

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				
<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 A94.05	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD														
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:5%; text-align:center;">1</td><td>ORDER APPOINTING THE BOARD</td></tr> <tr><td style="text-align:center;">2</td><td>APPLICATION FOR REVIEW OF DISCHARGE</td></tr> <tr><td style="text-align:center;">3</td><td>LETTER OF NOTIFICATION</td></tr> <tr><td style="text-align:center;">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
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 26 Jul 2005	CASE NUMBER FD-2005-00056	
---	--	--

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.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT

INDORSEMENT	DATE: 7/26/2005
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-2005-00056

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. The records indicated the applicant received five Letters of Reprimand, one Letter of Counseling, and one Record of Individual Counseling, all in just eight months of service, for failure to go, dereliction of duty, failure to shave, bringing a cell phone to class, failure to keep his room in inspection order and for bringing alcohol into the dormitory while in Phase III. 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]
[REDACTED]
(Former A1C) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Sheppard AFB, TX on 7 Dec 04 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: 15 Sep 81. Enlmt Age: 22 2/12. Disch Age: 23 2/12. Educ: HS DIPL. AFQT: N/A. A-77, E-79, G-82, M-61. PAFSC: 2A312 - Avionic Systems Helper. DAS: 18 Aug 04.

b. Prior Sv: (1) AFRes 5 Dec 03 - 22 Mar 04 (3 months 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as A1C 23 Mar 04 for 6 yrs. Svd: 0 Yrs 8 Mo 15 Das, all AMS.

b. Grade Status: None.

c. Time Lost: None.

d. Art 15's: None.

e. Additional: LOR, 18 OCT 04 - Dereliction of duty.
LOR, 01 OCT 04 - Failure to go.
LOR, 24 SEP 04 - Failure to keep dorm room in inspection order, failure to go, and dereliction of duty.
LOR, 16 SEP 04 - Bringing alcohol into the dormitory while in phase III.
RIC, 17 AUG 04 - Failure to go.
LOR, 06 AUG 04 - Failure to shave.
LOC, 13 JUL 04 - Bringing cell phone to class, and failure to keep room in inspection order.

f. CM: None.

g. Record of SV: None.

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (1) Yrs (0) Mos (3) Das
TAMS: (0) Yrs (8) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 28 Jan 05.
(Change Discharge to Honorable, Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Written Statement in Response to AFPD 36-32, and AFI 36-3208, para 5.49.
3. Two Character References.

7APR05/ia

02 FEB 2005

AA/RE/RD/EF FD 2005-00056 "G-D"

APPLICATION FOR THE REVIEW OF DISCHARGE 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 the Department of Defense, Executive Services and Communications Directorate (0704-0004). 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 ORGANIZATION. 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 AIR FORCE COAST GUARD

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

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) 5. BOARD ACTION REQUESTED (X one)

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

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) 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.

10.a. COUNSEL/REPRESENTATIVE (if any) NAME (Last, First, Middle Initial) AND ADDRESS 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.

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE 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.) a. SIGNATURE - REQUIRED (Applicant or person in Item 11 above) b. DATE SIGNED - REQUIRED (YYYYMMDD) CASE NUMBER (Do not write in this space.)

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

- a. On 14 Oct 04 tripping in the hallway of building 920 was mistaken for horseplay. AIC [REDACTED], a former classmate who I tripped on, can testify to this truth.
- b. On 30 Sep 04 I failed to attend an appointment that was for a Reading Assessment Test. That day my instructor SrA [REDACTED] forgot that I was suppose to leave class. We were both unaware even though we were given the itinerary the day before. My intentions were clearly not to skip.
- c. I was told by the Area Defense Council at Sheppard AFB, TX that I could not receive an LOR for room failure but I did.
- d. Three LOR's at Sheppard is grounds for discharge but many of my LORs were unjust.

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

16. REMARKS (If applicable)

All or most of my responses to previous letters while in active service were direct statements expressing my apologies instead of rebuttles because I knew not what were grounds for LOR's and was affraid of further reprimands. It was not until the recommendation for discharge papers came through that the Area Defense Council advised me of the injustice of some of the paperwork that was written and filed against me. When evidence of injustice learned in my favor it was dismissed because I was a target. I have completed Electronic Principles at the Community College of the Air Force, have done 2 yrs at the University of Nebraska, and a semester at Wichita State University, KS. I intend to continue my education for completion and with proper authorization from the Board I wish to return to the US Air Force and complete my service or continue it. I have many skills that I believe can be utilized in the US Air Force.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
Support Division, St. Louis
9700 Page Avenue
St. Louis, MO 63132-5200
(See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
720 Kennon Street, S.E.
Room 309 (NDRB)
Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
SAF/MRBR
550-C Street West, Suite 40
Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
Commandant (G-WPM)
2100 Second Street, S.W. Room 5500
Washington, DC 20593

DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

FD 2005-00056



NOV 29 2004

MEMORANDUM FOR AIC [REDACTED]

FROM: 365 TRS/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 AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as honorable or under honorable conditions (general). I am recommending that your service be characterized as under honorable conditions (general).
2. My reasons for this action are:
 - a. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 14 Oct 04, were derelict in the performance of those duties in that you failed to refrain from engaging in horseplay in the hallway of building 920, as it was your duty to do. For this misconduct, you received a Letter of Reprimand (LOR) on 18 Oct 04.
 - b. You did, at or near Sheppard AFB TX, on or about 30 Sep 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: appointment to take the AF Reading Assessment Test, at 0730. For this misconduct, you received an LOR on 1 Oct 04.
 - c. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 23 Sep 04, were derelict in the performance of those duties in that you failed to keep your room in inspection order, as it was your duty to do. For this misconduct and subparagraphs "d" and "e" below, you received an LOR on 24 Sep 04.
 - d. You did, at or near Sheppard AFB TX, on or about 22 Sep 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: Physical Readiness Training.
 - e. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 15 Sep 04, were derelict in the performance of those duties in that you willfully failed to refrain from using another Airman's phase III card with the intent to make others believe you were phase III, as it was your duty to do.
 - f. You, who knew or should have known of your duties at or near Sheppard AFB TX, on or about 11 Sep 04, were derelict in the performance of those duties in that you failed to refrain from bringing alcohol into the dormitory while in phase III, as it was your duty to do. For this misconduct, you received an LOR on 16 Sep 04.

g. You did, at or near Keesler AFB MS, on or about 17 Aug 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: the outprocessing pay briefing. For this misconduct, you received an AF Form 174, Record of Individual Counseling, on 17 Aug 04.

h. You, who knew or should have known of your duties at or near Keesler AFB MS, on or about 4 Aug 04, were derelict in the performance of those duties in that you failed to shave or attain a shaving waiver, as it was your duty to do. For this misconduct, you received an LOR on 6 Aug 04.

i. You, who knew or should have known of your duties at or near Keesler AFB MS, on or about 12 Jul 04, were derelict in the performance of those duties in that you failed to refrain from bringing a cell phone to class, as it was your duty to do. For this misconduct and subparagraph "j" below, you received a Letter of Counseling (LOC) on 13 Jul 04.

j. You, who knew or should have known of your duties at or near Keesler AFB MS, on or about 8 Jul 04, were derelict in the performance of those duties in that you failed to keep your room in inspection order at all times, as it was your duty to do.

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 you are discharged, how your service will be characterized. 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.

3. 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 Cap [REDACTED] extension 6-2186, the ADC, at building 1638 on 30 Nov 04 at 1000 hours. You may consult civilian counsel at your own expense.


4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 2 Dec 04, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. 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.

6. You have been scheduled for a medical examination. You must report to the 82d Medical Group, Bldg 1200, Student Health, at 0700 on 30 Nov 04.






7. 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 the 365 TRS Commander's Support Staff.

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


Commander

SAF

Attachments:

1. LOR, 18 Oct 04
2. Response to LOR, 20 Oct 04
3. LOR, 1 Oct 04
4. Response to LOR, 5 Oct 04
5. LOR, 24 Sep 04
6. Response to LOR, 28 Sep 04
7. LOR, 16 Sep 04
8. Response to LOR, 22 Sep 04
9. AF Form 1168, A1C  13 Sep 04
10. AF Form 1168, SSgt  13 Sep 04
11. Remedial Military Training, 19 Aug 04
12. E-mail, TSgt  18 Aug 04
13. AF Form 174, 17 Aug 04
14. Written Response, 18 Aug 04
15. LOR, 6 Aug 04
16. MFR, TSgt  6 Aug 04
17. LOC, 13 Jul 04
18. Remedial Military Training, 13 Jul 04
19. MFR, TSgt Tigner, 1 Oct 04
20. AETC Form 341, 13 Sep 04
21. AETC Form 125A, 6 Nov 04
22. Student Training Report, 04047
23. MFR, SrA  4 Nov 04
24. Lackland AFB Form 205, 7 Jun 04
25. Airman's Receipt to Notification Memorandum 