

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
					X

ISSUES	A94.05	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	26 Jul 2005	CASE NUMBER	FD-2005-00066
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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 RECORDED

INDORSEMENT		DATE: 7/27/2005
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, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00066

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 contends discharge was inequitable because it was too harsh. The records indicated the applicant received an Article 15 for failure to go, breaking a no contact order and dereliction in his duties. In addition, he received a Letter of Reprimand for showing up intoxicated for a mandatory appointment for alcohol awareness and was refused entry. Applicant states that his supervisor told him that he was an exceptional airman and everything would have been overlooked if it weren't for the Force Shaping Program. Then he states that he was being kicked out not because he was bad, but because they needed to meet a quota. This issue is without merit. The applicant was discharged due to the minor misconduct as discussed above. 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 SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pope AFB, NC on 17 Aug 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 3 Aug 81. Enlmt Age: 18 8/12. Disch Age: 23. Educ: HS DIPL. AFQT: N/A. A-48, E-50, G-57, M-66. PAFSC: 2A652 - Aerospace Ground Equipment Journeyman. DAS: 21 Dec 00.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 27 Apr 00 for 6 years. Svd: 04 Yrs 03 Mo 22 Das, all AMS.

b. Grade Status: A1C - 10 Feb 04 (Article 15, 10 Feb 04)
SrA - 09 Oct 02
A1C - 09 Jun 00

c. Time Lost: None.

d. Art 15's: (1) 10 Feb 04, Elemendorf AFB, Alaska - Article 86. You, did on or about 18 Jan 2004, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, having knowledge of a lawful order issued by 1Lt [REDACTED] to wit: "You are hereby ordered to have absolutely no contact whatsoever with the following individuals listed below: A1C [REDACTED] and SrA [REDACTED]," or words to that effect, an order which it was your duty to obey, did, on or about 16 Jan 04, fail to obey the same by wrongfully attending a small gathering with A1C [REDACTED]. You, who knew of your duties, on or about 18 Jan 04, were derelict in the performance of those duties in that you willfully failed to wear your service dress uniform to the commander's office, as it was your duty to do. Reduction to AB. Forfeiture of \$596.00 pay per month for 2 months. Restriction to the limits of Base for 45 days and 45 days extra duty. The Commander granted yor appeal in part as follows: Reduction to AB with reduction below A1C was suspended. Forfeiture of \$596.00 pay per month for 2 months (Suspended). Extra duty is reduced from 45 days to 20 days extra duty.

(Appeal/Granted) (No mitigation)

- e. Additional: LOR, 14 JUL 04 - Showed up intoxicated for a mandatory appointment for alcohol awareness and was refused entry. Security Forces took a breathalyzer which indicated you were likely driving under the influence, when driving to his appointment, four hours earlier.
- f. CM: None.
- g. Record of SV: 27 Apr 00 - 27 Dec 01 Elmendorf AFB 5 (Initial)
 28 Dec 01 - 27 Dec 02 Elmendorf AFB 5 (Annual)
 28 Dec 02 - 27 Dec 03 Elmendorf AFB 3 (Annual)
- h. Awards & Decs: AFTR, NDSM, AFLSA, AFOUA, AFGCM.
- i. Stmt of Sv: TMS: (04) Yrs (03) Mos (22) Das
 TAMS: (04) Yrs (03) Mos (22) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 27 Jan 05.
 (Change Discharge to Honorable)

Issue 1: I feel the things I did were wrong. But, all my supervision told me that I was an exceptional airman and everything would have been overlooked if it weren't for the Force Shaping Program. I was told that I was being kicked out not because I was bad, but because they need to meet a quota. An Honorable Discharge would be greatly appreciated.

ATCH
 None.

16MAR05/day



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AIR FORCE BASE NORTH CAROLINA

2 Aug 04

MEMORANDUM FOR A1C [REDACTED]

FROM: 43 MXS/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 will be characterized as an Under Honorable Conditions (General) Discharge. I am recommending that your service be characterized as an Under Honorable Conditions (General) Discharge.

2. My reason for this action is:

a. On or about 27 Jun 04, you were unable to attend your mandatory alcohol awareness appointment at Life Skills because you smelled of alcohol. The staff at the Life Skills center noticed the smell and refused to see you. You were then escorted to Security Forces for a breathalyzer and your alcohol content was measured at .03, as documented by a Letter of Reprimand, dated 14 Jul 04.

b. On or about 27 Jun 04, you drove from Myrtle Beach, South Carolina to Pope Air Force Base for your alcohol awareness class at Life Skills while you were intoxicated. You left Myrtle Beach on the morning of 27 Jun 04 and made the two-hour drive to Pope AFB for your 0930 appointment at Life Skills. At 1148 hours, four hours after you began your drive to Pope AFB, you were given a breathalyzer test and you registered a .03, as documented by a Letter of Reprimand, dated 14 Jul 04.

c. On or about 18 Jan 04, you did, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 3rd Equipment Maintenance Squadron Commander's Office, as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 10 Feb 04.

d. On or about 16 Jan 04, you having knowledge of a lawful order issued by 1Lt [REDACTED], to wit "You are hereby ordered to have absolutely no contact whatsoever with the following individuals listed below: [REDACTED] and [REDACTED], or words to that effect, an order which it was your duty to obey, did, at or near Elmendorf Air Force Base, Alaska, fail to obey the same by wrongfully attending a small gathering with [REDACTED] as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 10 Feb 04.

e. On or about 18 Jan 04, you were derelict in the performance of your duties in that you willfully failed to wear your service uniform to the commander's office, as it was your duty to do, as documented by an AF Form 3070, Record of Nonjudicial Punishment Proceedings, dated 10 Feb 04.

3. The 43d Airlift Wing Commander, who exercises SPCM jurisdiction is the Separation Authority and will decide whether you will be discharged or retained in the Air Force. Copies of the documents to be forwarded to the Separation Authority in support of this recommendation are attached. 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. Military counsel may be obtained to assist you. Contact [REDACTED] (extension 4-2362) at the Area Defense Counsel's office, to schedule an appointment with the Area Defense Counsel (ADC). You may have a military counsel other than the ADC, if the lawyer you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit a statement in your behalf. Any statements you want the Separation Authority to consider must reach me by 540604 at 1500 unless you request and receive an extension for good cause shown. Any submitted statements will be forwarded to the Separation Authority.

6. If you fail to consult counsel or to **submit statements in your behalf in three duty days**, your failure will constitute a waiver of your right to do so.

7. You have been scheduled for a physical examination with [REDACTED]. Report to Pope AFB Flight Medicine Clinic on 9A0604 at 1310 hours. In addition, report to Lab ASAP for HIV screening.

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 at <http://www.e-publishing.af.mil/>.

[REDACTED] Major, USAF
Commander

Attachments:

1. LOR, dated 14 Jul 04 (2 pgs)
2. AF Form 3070, dated 10 Feb 04 (3 pgs)
3. Receipt of Notification Memorandum