

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)	GRADE AMN	AFSN/SSAN
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TYPE HON	PERSONAL APPEARANCE	X	RECORD REVIEW
COUNSEL		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 06 Dec 2005	CASE NUMBER FD-2005-00084	
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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.

* Send signal

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
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INDORSEMENT **DATE: 12/6/2005**

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
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AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00084

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 because he was discharged "after being diagnosed with insomnia." The records indicated the applicant received two Article 15s, one Letter of Reprimand, and three Records of Individual Counseling for misconduct. The misconduct included recurring lateness, failure to go, and making a false statement. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The DRB had no medical records or documentation confirming a diagnosis of insomnia. 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.

If he can provide additional documented information to substantiate an issue, the applicant should consider exercising his right to make a personal appearance before the Board. If he should choose to exercise his right to a personal appearance hearing, the applicant should be prepared to provide the DRB with factual evidence of the inequity and any exemplary post-service accomplishments as well as any contributions to the community.

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 Wright-Patterson AFB, OH on 31 Jul 03 UP AFI 36-3208, para 5.49 (Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 29 Dec 81. Enlmt Age: 19 3/12. Disch Age: 21 7/12. Educ: HS DIPL. AFQT: N/A. A-69, E-72, G-55, M-50. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 29 Oct 02.

b. Prior Sv: (1) AFRes 30 Mar 01 - 16 Apr 01 (17 Days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 17 Apr 01 for 6 years. Svd: 02 Yrs 03 Mo 13 Das, all AMS.

b. Grade Status: Amn - 27 Jun 03 (Vacation of Suspension, 27 Jun 03)
A1C - 15 Jun 01

c. Time Lost: None.

d. Art 15's: (1) 27 Jun 03 - Vacation, Spangdahlem AB, GE - Article 86. You did, on or about 10 Jun 03, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Amn. (No appeal) (No mitigation)

(2) 8 May 03 - Spangdahlem AB, GE - Article 86. You did, on or about 17 Apr 03, without authority, fail to go at the time prescribed to your appointed place of duty. Article 107. You did, on or about 17 Apr 03, with intent to deceive, make to TSgt [REDACTED] an official statement, to wit: "I failed my driving test," and "I did take my driving test," or words to that effect, which statement was totally false, and was then known by you to be so false. Suspended Reduction to Amn. Fourteen days extra Duty and Reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 11 MAR 03 - Failure to go at time prescribed.
RIC, 20 FEB 03 - Late for Duty.
RIC, 09 JAN 03 - Recurring Lateness.
RIC, 03 JAN 03 - Recurring Lateness.

f. CM: None.

g. Record of SV: 19 Apr 01 - 15 Mar 03 Spangdahlem AB 4 (Initial)

h. Awards & Decs: NDSM, AFTR.

i. Stmt of Sv: TMS: (02) Yrs (04) Mos (00) Das
TAMS: (02) Yrs (03) Mos (13) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 25 Jan 05.
(Change Discharge to Honorable.)

Issue 1: Discharge was given after being diagnosed with insomnia. Doctor had requested for me to be put on a night shift, request was refused so that I would be on same shift with supervisor, who ...I never seen due to the fact that he worked in a different building and never helped with any problems.

ATCH

None.

31May05day



DEPARTMENT OF THE AIR FORCE
52D FIGHTER WING (USAFE)

MEMORANDUM FOR Amn [REDACTED] 52 EMS

FROM: 52 EMS/CC

15 JUL 2003

SUBJECT: Notification Letter

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 general (under honorable conditions). I am recommending that your service be characterized as general (under honorable conditions).
2. My reasons for this action are:
 - a. On or about 3 Jan 03, you failed to report for duty on time. For this infraction you received a Record of Individual Counseling (RIC) dated 3 Jan 03 (Atch 1).
 - b. On or about 9 Jan 03, you failed to report for duty on time. For this infraction, you received another RIC dated 9 Jan 03 (Atch 2).
 - c. On or about 20 Feb 03, you failed to report for duty on time. For this infraction, you received another RIC dated 20 Feb 03 (Atch 3).
 - d. On or about 7 Mar 03, you failed to report for duty on time. For this infraction, you received a Letter of Reprimand dated 11 Mar 03 (Atch 4).
 - e. On or about 17 Apr 03, you failed to go at the time prescribed to your place of duty and you made a false official statement. For these infractions, you received an Article 15 Nonjudicial Punishment action dated 8 May 03. Your punishment included reduction to the grade of E-2 (Airman), suspended until 7 Nov 03, 14 days extra duty and a reprimand (Atch 5).
 - f. On or about 10 Jun 03, you failed to go at the time prescribed to your appointed place of duty. For this infraction, on 27 Jun 03, you received a vacation action of the previously suspended Article 15 Nonjudicial Punishment reduction and you were reduced in rank to E-2 (Airman) with a new date of rank of 8 May 03 (Atch 6).
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 a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for re-enlistment 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] at Spangdahlem AB, Germany, DSN 452-6607, on 16 July 03 at 1030 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 **within three duty days**, unless you request and receive an extension in writing for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements on 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 your **PRIMARY CARE MANAGER** on 16 July 03 at 1300 hours. You must report 15 minutes prior to your appointment.

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 the Commander's Support Staff office.

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



Commander

Attachments:

1. RIC, 3 Jan 03
2. RIC, 9 Jan 03
3. RIC, 20 Feb 03
4. LOR, 11 Mar 03
5. AF Form 3070, 8 May 03
6. AF Form 366, 27 Jun 03
7. Airman's Receipt of Notification Letter, located at Tab 2