

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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	A67.90	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	05 Oct 2005	CASE NUMBER	FD-2005-00155		

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.

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INDORSEMENT		DATE: 10/5/2005
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-2005-00155

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 applicant substantiates an impropriety or inequity that would justify a change of discharge.

ISSUE: Applicant contends discharge was inequitable because it was too harsh. The records indicated the applicant received two Article 15's and a Letter of Reprimand for misconduct involving the use of alcohol. All three instances were for drinking while under the age of 21. 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 AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Eielson AFB, AK on 12 Jul 02 UP AFI 36-3208, para 5.50.2 (Pattern of Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 28 May 81. Enlmt Age: 17 8/12. Disch Age: 21 1/12. Educ: HS DIPL. AFQT: N/A. A-58, E-74, G-57, M-84. PAFSC: 2A353B - Tactical Aircraft Maintenance. DAS: 17 Feb 00.

b. Prior Sv: (1) AFRes 19 Feb 99 - 08 Jun 99 (03 mos 20 das) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 9 Jun 99 for 4 years. Svd: 03 Yrs 01 Mo 04 Das, all AMS.

b. Grade Status: Amn - 31 May 02 (Art 15, 31 May 02)
A1C - 20 Oct 00
Amn - 09 Dec 99

c. Time Lost: None.

d. Art 15's: (1) 31 May 02, Eielson AFB, AK - Article 92. You, who knew or should have known of your duties, on or about 27 Apr 02, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of 21, as it was your duty to do. Reduction to Amn. (No appeal) (No mitigation)

(2) 01 Nov 00, Eielson AFB, AK - Article 92. You, who knew of your duties, on or about 9 Oct 00, were derelict in the performance of those duties in that you willfully failed to refrain from drinking alcohol while under the age of 21, as it was your duty to do. Received a Reprimand. (No appeal) (No mitigation)

e. Additional: LOR, 28 AUG 00 - Failure to refrain from underage drinking.

f. CM: None.

g. Record of SV: 09 Jun 99 - 08 Feb 01 Eielson AFB 3 (Initial)REF
09 Jun 99 - 08 Feb 02 Eielson AFB 5 (Annual)

h. Awards & Decs: AFTR, AFEM, NDSM.

i. Stmt of Sv: TMS: (03) Yrs (04) Mos (24) Das
TAMS: (03) Yrs (01) Mos (04) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 18 Apr 05.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Certificate for AF Expeditionary Medal.
3. Two Certificates of Accomplishment.
4. DD Form 149.

24MAY05/day

13 APR 2005

FD 2005-00155

AA

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 E2 d. SOCIAL SECURITY NUMBER

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) 20020712 4. DISCHARGE CHARACTERIZATION RECEIVED (X one) HONORABLE GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS BAD CONDUCT UNCHARACTERIZED OTHER 5. BOARD ACTION REQUESTED (X one) CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED 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.) I have attached one separate paper to present my case.

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.) I have attached copies of the awards I received during operation Enduring Freedom, just prior to my discharge.

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. 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.) 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 (Forward notification of 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-REQUIRED (Applicant or person in item 11 above) b. DATE SIGNED - REQUIRED (YYYYMMDD) 20050418 FD2005-00155

I believe that an article 15 punishment leading to my discharge from the armed forces was unjust. The article 15 was given to me on the basis of the testimony of only my squadron's first sergeant and one scared airman, that I consumed alcohol under the age of 21.

On the night of April 27, 2002, my fiancé flew up to Alaska to spend time with me. There was a squadron dinner in the basement of our dorm that evening and some fellow coworkers stopped in to say hello to her and I, on their way, at approximately 8 pm. Several of the airman brought in beer, and many other dorm mates were coming and going from my room and consuming their alcohol. I, however, never did. I didn't want to waste any time with my fiancé by being drunk. After the last of the airman left my room, I put the beer they had left behind in the refrigerator outside my door and locked the door. At 0500 I received a phone call from an airman stating he was in jail after receiving a DUI. At 0515 I received another phone call from another airman stating he, too, was in jail for a DUI. They both had asked me to come bail them out, but I did not have the money and so could not. After the first sergeant questioned the two airmen, he found out they had consumed the alcohol in my room, and that one of the airmen was underage. He questioned the underage airman more, intimidating him, and got the airman to say that I, too, was consuming alcohol. There were never any security forces that came to my room that night and there was never anyone to positively verify that I consumed alcohol, except one airman already under the influence of alcohol.

I had received an article 15 for underage drinking prior to this offense and I was given a notification for discharge after my second. I do take full responsibility for my action on my prior article 15, and I worked very hard to overcome that. While deployed to Operation Enduring Freedom in Kuwait, I received a commanders coin for recognition of my accomplishments, an Outstanding Assistant Crew Chief award presented to me by the commander, and the Top Fox award for being the outstanding mechanic throughout the deployment. After returning home from the deployment I did not stop, I went on to design new layouts for tool boxes, and new maintenance stands to help other mechanics.

I do truly believe that this first sergeant felt like he had a duty to get me discharged before he retired. My name should have never have come up while he questioned an airman for an off base DUI. Furthermore, I have never understood why this first sergeant would want to pursue such a case with no such cause. As stated in the Airman's Manual, your first sergeant is there to help any airman in a time of need, and there to provide support and direction. This first sergeant did just the opposite.

Thank you for your time in considering this upgrade.

DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES



MEMORANDUM FOR Amn [REDACTED] 18 FS, PACAF

17 JUN 02

FROM: 18 FS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for A Pattern of Misconduct – Conduct Prejudicial to Good Order and Discipline. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.50.2. If my recommendation is approved, your service will be characterized as honorable or general. I am recommending that your service be characterized as general.

2. My reasons for this action are as follows:

a. On or about 6 Aug 00, you drank alcohol while under the age of twenty-one years. For this infraction, you received a Letter of Reprimand, dated 28 Aug 00 (Atch 1).

b. On or about 9 Oct 00, you drank alcohol while under the age of twenty-one years. For this infraction, you received nonjudicial punishment, dated 1 Nov 00 (Atch 2).

c. On or about 27 Apr 02, you drank alcohol while under the age of twenty-one years. For this infraction, you received nonjudicial punishment, dated 31 May 02 (Atch 3).

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 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.

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] Area Counsel, Building 3112, Room 155, Eielson AFB, Alaska, on 17 Jun 02 at [REDACTED] 1000 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 (3 duty days) 20 Jun 02, 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 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 the Physical Examination Section, 354th Medical Group, Building 3349, at 1200 1300 400 for the examination.

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 your orderly room.


Col, USAF
Commander, 18 FS

Attachments:

1. Letter of Reprimand, dtd 28 Aug 00 (2pgs)
2. AF Form 3070, dtd 1 Nov 00 (5pgs)
3. AF Form 3070, dtd 31 May 02 (5pgs)