AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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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.
- Two Certificates of Accomplishment.
 DD Form 149.

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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.

17 JUNOZ

18 FS, PACAF

DEPARTMENT OF THE AIR FORCE PACIFIC AIR FORCES



MEMORANDUM FOR Amn

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 Area Area Se Counsel, Building 3112, Room 155, Eielson AFB, Alaska, on <u>17 Area 20</u> 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) Zeluce, 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 Provident Examination Section, 354th Medical Group, Building 3349, at 12400 of 1360 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)