

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
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TYPE GEN	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	DEN
					X
					X
					X
					X
					X

ISSUES	A93.09	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	CASE NUMBER
08 Dec 2005	FD-2005-00167

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: 12/12/2005
TO:	FROM:	
SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	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-2005-00167

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 does not contest his discharge. He states that he wants an upgrade in order to use his GI Bill benefits and to advance in his job. The records indicated the applicant received two Article 15s, a Vacation action under the UCMJ, one Letter of Reprimand, three Letters of Counseling, and three Records of Individual Counseling for various acts of misconduct to include being late for duty on several occasions, speeding on Post, violation of dress and appearance standards, failure to properly perform his duties, negligently failed to keep accountability of rifles in his possession, failure to go, and making false official statements on numerous occasions. 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. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

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 SRA)

1. MATTER UNDER REVIEW: Appl rec'd a GEN Disch fr Shaw AFB, SC on 18 Jun 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. BACKGROUND:

a. DOB: 15 May 80. Enlmt Age: 19 1/12. Disch Age: 24 1/12. Educ: HS DIPL. AFQT: N/A. A-77, E-45, G-50, M-39. PAFSC: 1C451 - Tactical Air Command Control Journeyman. DAS: 12 Dec 02.

b. Prior Sv: (1) AFRes 30 Jun 99 - 28 Jul 99 (29 days) (Inactive).

3. SERVICE UNDER REVIEW:

a. Enlisted as AB 29 Jul 99 for 6 yrs. Svd: 4 Yrs 10 Mo 20 Das, all AMS.

b. Grade Status: AMN - 6 May 04 (Article 15, 6 May 04)
SrA - 6 Apr 04
A1C - 6 May 02 (Vacation of Article 15, 5 Jun 02)
SrA - 11 Jan 02
A1C - 11 Sep 99

c. Time Lost: None.

d. Art 15's: (1) 6 May 04, Ft. Stewart, GA - Article 107. You, did, on divers occasions, between on or about 18 Dec 03 and on or about 19 Apr 04, with intent to deceive, make to SMSgt [REDACTED], on divers occasions, an official statement, to wit: You would be attending physical therapy several times a week, which statement was totally false, and was then known by you to be so false. Article 86. You, did, on divers occasions, between on or about 18 Dec 03 and on or about 19 Apr 04, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to Airman, and 45 days extra duty. (No appeal) (No mitigation)

(2) 5 Jun 02, Vacation, Camp Casey AI, Korea - Article 86. You, did, on or about 15 May 02, without authority, fail to go at the time prescribed to your appointed place of duty. Reduction to A1C. (No appeal) (No mitigation)

(3) 6 May 02, Camp Casey AI, Korea - Article 92. You, who knew of your duties, on or about 19 Mar 02, were

derelict in the performance of those duties in that you negligently failed to keep accountability of 5 M16A2 rifles in your possession, as it was your duty to do. Suspended reduction to A1C. Thirty days restriction, 30 days extra duty, and a reprimand. (Appeal/Denied) (No mitigation)

e. Additional: LOC, 16 APR 04 - Failure to perform vehicle operation inspection.

LOC, 15 APR 04 - Late for work.

LOR, 06 AUG 03 - Speeding on Post.

RIC, 04 AUG 03 - Violation of dress and appearance standards.

RIC, 01 AUG 03 - Speeding on Post.

RIC, 08 JUL 03 - Late for duty.

LOC, 20 JUN 03 - Late for duty.

f. CM: None.

g. Record of SV: 29 Jul 99 - 10 Apr 02 Camp Casey AI 2 (Initial)REF
11 Apr 02 - 28 Jun 03 Ft. Stewart 4 (Annual)

h. Awards & Decs: ARCM, AFOUA W/1 OLC, NDSM, AFEM w/1 Dev, AFOSSTR, AFLSAR, SAEMR, AFTR, CRM.

i. Stmt of Sv: TMS: (4) Yrs (11) Mos (19) Das
TAMS: (4) Yrs (10) Mos (20) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 01 Mar 05.
(Change Discharge to Honorable)

Issue 1: I would like for my discharge to be upgraded from General under honorable to an honorable discharge. I would like to have this change made, so I can use this for my educational advancement as well as job enhancement. As you will see with the documentation I am sending, my dedication to the job was evident. You will see that my hardwork paid off in Operation Iraqi Freedom. I hope these factors will help your judgement in changing my discharge.

ATCH

1. Recommendation For Award.
2. Two Enlisted Performance Reports.

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DEPARTMENT OF THE AIR FORCE
15TH AIR SUPPORT OPERATIONS SQUADRON (ACC)
FORT STEWART GEORGIA

FD 2005-00167

MEMORANDUM FOR AMN [REDACTED]

25 May 2004

FROM: 15 ASOS/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 AFD 36-32 and AFI 36-3208, Chapter 5, Section H, Paragraph 5.49. If your discharge 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. Between on or about 18 Dec 03 and 19 Apr 04, on divers occasions, you made false official statements to SMSgt [REDACTED] that you would be attending physical therapy several times a week but instead you were just reporting to work late on these occasions to cover up your drinking problem. For this incident, you received an Article 15, dated 6 May 04.
 - b. On or about 16 Apr 04, you irresponsibly failed to properly sign out a squadron vehicle. You used three vehicles during that time and did not properly conduct pre-operation inspections or document the AF 1800. For this incident, you received an LOC, dated 16 Apr 04.
 - c. On or about 15 Apr 04, you irresponsibly failed to arrive to work and perform prearranged 18 ASOG tasking on time. You pre-coordinated with SSgt [REDACTED] for COMSEC pick up at 0700 and did not appear on time. For this incident, you received an LOC, dated 15 Apr 04.
 - d. On or about 3 Aug 03, you were stopped by the Fort Stewart Military Police for speeding on post. Your speed was clocked at 70 MPH in a 55 MPH zone on Highway 119. For this incident, you received an LOR, dated 6 Aug 03.
 - e. On or about 1 Aug 03, you were observed by MSgt [REDACTED] and the Flight Commander crossing the parking lot from your POV to the squadron facility not wearing your DCU top or hat and with your sun shades on top of your head. For this incident, you received a RIC, dated 4 Aug 04.
 - f. On or about 11 Jun 03, you were stopped by the Fort Stewart Military Police for speeding on post. Your speed was clocked at 69 MPH in a 55 MPH zone on Highway 119 North Bound. For this incident, you received a RIC, dated 1 Aug 03.

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g. On or about 2 Jul 03, after mandatory physical training you failed to report back to work on time. For this incident, you received a RIC, dated 8 Jul 03.

h. On or about 20 Jun 03, you failed to report to duty on time. For this incident, you received a LOC, dated 20 Jun 03.

i. On or about 15 May 02, you failed to report to work on time. For this incident, your suspended Article 15 punishment was vacated on 7 Jun 02.

j. On or about 19 Mar 02, you failed to keep accountability of M 16A2 rifles in your possession. For this incident, you received an Article 15, dated 6 May 02.

3. Copies of the documents to support this recommendation are attached and will be forwarded to the separation authority. The separation authority will make the findings and recommendations required under 10 U.S.C. 2005(g) regarding recoupment of education assistance funds, if applicable. The commander exercising special court-martial 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 Captain [REDACTED], Area Defense Counsel, DSN 965-9530, 321 Cullen Street, at 1430 hours on 25 May 2004. 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 1115 hours on 1 June 2004 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 completed your medical examination at Winn Army Community Hospital at 1300 hours on 24 May 2004

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 unit orderly room.

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

[REDACTED]
[REDACTED]
[REDACTED] Lt Col, USAF
Commander

Attachments:

1. AF Form 3070, 6 May 04 (Tab 4)
2. LOC, 16 Apr 04 (Tab 4)
3. LOC, 15 Apr 04 (Tab 4)
4. LOR, 6 Aug 03 (Tab 4)
5. RIC, 4 Aug 03 (Tab 4)
6. RIC, 1 Aug 03 (Tab 4)
7. RIC, 8 Jul 03 (Tab 4)
8. LOC, 20 Jun 03 (Tab 4)
9. AF Form 366, 7 Jun 02 (Tab 4)
10. AF Form 3070, 6 May 02, (Tab 4)
11. Receipt of Notification Memorandum (Tab 5)