

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(TIAL)

TYPE GEN	X	PERSONAL APPEARANCE	RECORD REVIEW
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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

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 03 Nov 2005	CASE NUMBER FD-2005-00189
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL 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 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: 11/3/2005

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-2005-00189

GENERAL: The applicant appeals for upgrade of discharge to honorable, to change the reason and authority for the discharge, and to change the reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), without counsel, at Andrews AFB on 03 Nov 2005. The applicant's mother, Mrs. [REDACTED] also testified on the applicant's behalf.

The following additional exhibit was submitted at the hearing:

Exhibit #5: Applicant's Additional Contentions

Exhibit #6: 5 Character reference letters

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge and change of reason and authority for discharge, and change of reenlistment code are 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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh and other people in his squadron committed worse misconduct but were retained. The records indicated the applicant received an Article 15, three Letters of Reprimand and three Records of Individual Counseling for misconduct. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct constituted a significant departure from the conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate.

Issue 2. Applicant states that he was treated unfairly because he was often made to do jobs other people did not want to do. The board did not believe this constituted an impropriety or inequity in his discharge.

Issue 3. The Applicant believes that his discharge was improper because he did not receive a separation physical but was told to sign a paper saying he had one done. The records indicate the applicant did receive a separation physical. Certainly the applicant has not overcome the presumption of regularity. Two documents in the medical record indicate he received a separation physical.

Issue 4. 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 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.

Issue 5. Applicant contends that he should not have been discharged because he was frequently switched to different shifts. The Board examined this claim and noted the applicant's medical records indicate he had difficulty adjusting to the different shifts, but also noted that much of his misconduct was not related to sleep

issues so much as they were the result of his immaturity and poor judgment. While the DRB recognized the applicant was young when the discharge took place, there is no evidence he was so immature he did not know right from wrong. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

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

[REDACTED]

(Former AMN) (HGH SrA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Pope AFB, NC on 24 Jun 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 5 Jun 84. Enlmt Age: 17 6/12. Disch Age: 20 0/12. Educ: HS DIPL. AFQT: N/A. A-79, E-73, G-66, M-62. PAFSC: 2A630 - Aircraft Electronic & Environmental Systems Apprentice. DAS: 31 Mar 03.

b. Prior Sv: (1) AFRes 20 Dec 01 - 29 Jul 02 (7 months 10 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 30 Jul 02 for 4 yrs. Svd: 1 Yrs 10 Mo 26 Das, all AMS.

b. Grade Status: Amn - 19 May 04 (Article 15, 19 May 04)
A1C - 30 Nov 03
Amn - 30 Jan 03

c. Time Lost: None.

d. Art 15's: (1) 19 May 04, Pope AFB, NC - Article 92. You, who knew of your duties, on or about 15 Apr 04, were derelict in the performance of those duties in that you willfully failed to meet the minimum standards of your dormitory room. You, who knew or should have known of your duties, on or about 10 Mar 04, were derelict in the performance of those duties in that you willfully operated a motor vehicle without a driver's license, as it was your duty to do. You, who knew or should have known of your duties, on or about 10 Mar 04, were derelict in the performance of those duties in that you willfully operated a motor vehicle without proof of insurance, as it was your duty to do. You, who knew or should have known of your duties, on or about 8 Mar 04, were derelict in the performance of those duties in that you willfully operated a motor vehicle without proof of insurance, as it was your duty to do. You, who knew or should have known of your duties, on or about 8 Mar 04, were derelict in the performance of those duties in that you willfully operated a motor vehicle without a driver's license, as it was your duty to do. You, who

knew or should have known of your duties, on or about 8 Mar 04, were derelict in the performance of those duties in that you willfully failed to wear your seatbelt, as it was your duty to do. You, who knew of your duties, on or about 16 Apr 04, were derelict in the performance of those duties in that you willfully failed to refrain from sending a chain email letter, as it was your duty to do. Reduction to Airman, 30 days extra duty, and a reprimand. (No appeal) (No mitigation)

- e. Additional: LOR, 07 APR 04 - Late for duty.
LOR, 22 MAR 04 - Failed dorm room inspection and tampering with the smoke alarm.
LOR, 23 SEP 03 - Failure to go.
RIC, 22 AUG 03 - Late for duty.
RIC, 07 JUL 03 - Late for duty.
RIC, 08 MAY 03 - Late for duty.
- f. CM: None.
- g. Record of SV: 30 Jul 02 - 29 Mar 04 Pope AFB 3 (Initial)REF
- h. Awards & Decs: AFTR, NDSM.
- i. Stmt of Sv: TMS: (2) Yrs (6) Mos (5) Das
TAMS: (1) Yrs (10) Mos (26) Das

- 4. BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 3 Apr 05.
(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Article 15, 19 May 04.
3. DD Form 214.

21JUN05/ia

7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)

WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.

ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

a. DOCUMENT 1:

Article 15

b. DOCUMENT 2:

c. DOCUMENT 3:

8. ISSUES

The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

- Members of the board -

I will be honest and straight to the point. I believe i deserve to have my discharge (general under honorable conditions) changed to an Honorable Discharge. For my faults in the military and things i have records of doing, I blame no one else but my self and only myself. In fact I would have just accepted my discharge if it had not been for how my Commander and 1st Sgt presented me with my Article 15. A particular vehicle incident had happend and that seemed to have been the foundation for me recieving the paper work i recieved. They took almost every peice of paper work they gave me and attached it to the vehicle incident and gave me an article 15. They RE-punished me for consiquences and sentences I had already served for the sole purpose of this Article 15. It did not seem right at all. If you look back at all the records from the 43AMXS you will find a lot of people who have gotten MANY an article 15 for things like drunk driving, and drinking underage. Some even have more than one. The thing is, they are still in the squadron working. I got discharged because of one, nonalcoholic charge. Also if you look into the time of my discharge and article 15, you'll notice that there were 4 individuals who at the same time as me were getting article 15s also. Now I lost all of my rank and got a SERIOUS deduction of pay, but all they got were extra duty sentences. The thing about it is they were not discharged, demoted, or deduced in pay, and they all had under age drinking charges. I got an article 15 for a vehicle incident. As you all will notice im not blaming anything i have been punished for in the past on anybody else but myself. I've accepted that. But i will continue to believe i have somehow been robbed of my opportunities. People i have been Generally discharged, and it happened right before my two year mark so i couldnt get my MGI bill. The thing I joined the military for in the first place. All I ask is for you to give me an Honorable Discharge, and a discharge code change, so i can join the Air National Gaurd and get my opportunity to recieve a good edjucation. I was fresh out of the house, I did some pretty stupid things which you will notice in your review of my records, all of the trouble is behind me. I learned my lesson, and I'm asking you to notice and reward me for it also. Thank you for reading my issues and giving me an opportunity to do this.

I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.

I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.

THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

9. CERTIFICATION

I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD):

20050403

b. SIGNATURE:



UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See http://arba.army.pentagon.mil)	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 43D AIRLIFT WING (AMC)
POPE AFB NORTH CAROLINA 28308

FD 2005-~~00189~~

9 Jun 04

MEMORANDUM FOR AMN [REDACTED]

FROM: 43 AMXS/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 AFD 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 15 Apr 04, you were derelict in the performance of your duties in that you willfully failed to meet the minimum standards of your dormitory room, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

b. On or about 10 Mar 04, you were derelict in the performance of your duties in that you willfully operated a motor vehicle without a driver's license, as documented by an AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

c. On or about 10 Mar 04, you were derelict in the performance of your duties in that you willfully operated a motor vehicle without proof of insurance, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

d. On or about 8 Mar 04, you were derelict in the performance of their duties in that you willfully operated a motor vehicle without proof of insurance, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

e. On or about 8 Mar 04, you were derelict in the performance of your duties in that you willfully operated a motor vehicle without a driver's license, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

f. On or about 8 Mar 04, you were derelict in the performance of your duties in that you willfully failed to wear your seatbelt, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

g. On or about 16 Apr 04, you were derelict in the performance of your duties in that you willfully failed to refrain from sending a chain email letter, as documented by AF Form 3070, Record of Nonjudicial Punishment, dated 19 May 04.

h. On or about 5 Apr 04, you failed to report for duty at the appointed time, as documented by a Letter of Reprimand, dated 7 Apr 04.