

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

(INITIAL)

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 A93.17 A93.01		INDEX NUMBER A66.00		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				
HEARING DATE 31 Aug 2005		CASE NUMBER FD-2005-00209						
APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE								
<p>Case heard at Washington, D.C.</p> <p>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.</p> <p>Names and votes will be made available to the applicant at the applicant's request.</p>								
INDORSEMENT					DATE: 8/31/2005			
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, 3E WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002			

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00209

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

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, 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.

ISSUES:

Issue 1. Applicant contends his discharge is hindering his employment and he is now struggling to make ends meet. The records indicated the applicant received two Article 15s, two Letters of Reprimand, two Letters of Counseling, three Records of Individual Counseling, and one Letter of Warning for misconduct. His misconduct included wrongful use of marijuana, underage drinking and providing alcohol to Air Force members under the legal drinking age, dereliction of duty, financial irresponsibility, not wearing a seat belt on multiple occasions, and unauthorized items in dorm room. 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.

Issue 2. Applicant contends that he should not be penalized indefinitely for a mistake he made when young. The DRB recognized the applicant was 22 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was essentially the same age as other first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

Issue 3. The applicant noted his desire to return to military service. While the Board commends applicant on his aspiration, it is not a matter of equity or propriety with regards to his discharge and does not provide a basis that warrants 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

[REDACTED]
(Former AB) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Holloman AFB, NM on 24 Dec 03 UP AFI 36-3208, para 5.54 (Misconduct - Drug Abuse). Appeals for Honorable Discharge, and to Change the RE Code, Reason and Authority for Discharge.

2. **BACKGROUND:**

a. DOB: 15 Jan 81. Enlmt Age: 18 2/12. Disch Age: 22 11/12. Educ: HS DIPL. AFQT: N/A. A-63, E-66, G-66, M-64. PAFSC: 2A652 - Aerospace Ground Equipment Journeyman. DAS: 1 Aug 02.

b. Prior Sv: (1) Enlisted USAFRes as A1C 22 Mar 99 for 6 yrs. Svd: 2 yrs 2 months 21 days, of which AMS is 10 Months 1 day. SrA - 1 Sep 00.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as Amn 12 Jun 01 for 4 yrs. Svd: 2 Yrs 6 Mo 12 Das, all AMS.

b. Grade Status: AB - 25 Nov 03 (Article 15, 25 Nov 03)
A1C - 12 Apr 02

c. Time Lost: None.

d. Art 15's: (1) 25 Nov 03, Holloman AFB, NM - Article 92. You, who knew or should have known of your duties, on or about 21 Oct 03, were derelict in the performance of those duties in that you negligently failed to refrain from falling asleep while on duty, as it was your duty to do. Article 112a. You did, at or near Alamogordo, New Mexico, between on or about 1 Mar 03 and on or about 31 May 03, wrongfully use marijuana. Reduction to AB. Suspended forfeiture of \$150.00 pay per month for 2 months. Fourteen days restriction, and a reprimand. (No appeal) (No mitigation)

(2) 23 Dec 02, Holloman AFB, NM - Article 92. You, who knew or should have known of your duties, on or about 25 Nov 02, were derelict in the performance of those duties in that you willfully failed to refrain from providing alcohol to Air Force members under the legal drinking age of 21, as it was your duty to do. Suspended reduction to Amn. Forfeiture of \$619.00 pay per month for 2 months. Restriction to base for 60 days and Reprimand. (No appeal) (No mitigation)

- e. Additional: LOC, 25 MAR 03 - Unauthorized items in dorm room.
- LOR, 08 APR 02 - Inoperative headlight on motorcycle and not wearing proper reflective vest/outer garment.
- LOR, 15 MAR 02 - Dereliction of duty.
- LOW, 11 MAR 02 - Cited for speeding.
- RIC, 19 FEB 02 - Financial irresponsibility.
- RIC, 19 FEB 02 - Late for duty.
- RIC, 25 JAN 02 - Not wearing a seat belt.
- LOC, 23 JAN 02 - Failure to report damage to bench stock.

f. CM: None.

- g. Record of SV: 11 Aug 00 - 11 Apr 02 Holloman AFB 3 (Initial)
- 12 Apr 02 - 11 Apr 03 Holloman AFB 4 (Annual)

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

- i. Stmt of Sv: TMS: (4) Yrs (9) Mos (3) Das
- TAMS: (3) Yrs (4) Mos (14) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 20 Apr 05.

(Change Discharge to Honorable, and Change the RE Code, Reason and Authority for Discharge)

Issue 1: I am requesting an upgrade in order to rejoin the military (Air Force). I was young and stupid, and I did not realize how good I had it. I now am married and have a 5 month old son, and I cannot get a well paying job, and in the best intrest (sic) of me and my family I want to rejoin the Airforce (sic). For the past 6 months I've been struggleing (sic) to make ends meet and keep food on the table, but I'm making it. I've learned the errors of my ways and want the best for my family. Thank you for your time in reading and considering my application for discharge upgrade.

ATCH

1. DD Form 214.
2. Three Character References.

28JUN05/ia



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 49TH FIGHTER WING (ACC)
HOLLOMAN AIR FORCE BASE, NEW MEXICO

FD2005-00209

MEMORANDUM FOR AB [REDACTED]

4 Dec 2003

FROM: 49 MXS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for drug abuse. The authority for this action is AFI 36-3208, Section 5H, paragraph 5.54. If my recommendation is approved, your service will be characterized as honorable or as under honorable conditions (general). I am recommending that you receive an under honorable conditions (general) discharge service characterization.
2. My reasons for this action are as follows: You did, at or near Holloman Air Force Base, New Mexico, between on or about 1 March 2003 and on or about 31 May 2003, wrongfully use marijuana. For your misconduct, you received Article 15 punishment on 25 November 2003, punishment consisting of reduction to the grade of Airman Basic with a new date rank of 25 November 2003, forfeiture of \$150.00 pay per month for 2 months, suspended through 24 May 2004, restriction to the limits of Holloman Air Force Base, New Mexico for 14 days and a Reprimand.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. 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, will probably be denied enlistment in any component of the armed forces, and any special pay, bonus, or education assistance funds may be subjected to recoupment.

3. 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 Area Defense Counsel, Building 222, Holloman AFB, phone 572-3474, at 1000 hours on 5 December 2003. You may consult civilian counsel at your own expense.
4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 9 Dec 2003 unless you request and receive an extension for good cause shown. I will forward your statements to the separation authority.
5. 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.

6. You have been scheduled for a medical examination. You must report to Flight Medicine, Bldg 17, at 1425 hours on 4 December 2003 for the examination.

7. 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 office of the Area Defense Counsel.

8. You must execute the attached receipt and return it to me immediately. This receipt does not admit or deny any of the allegations against you, nor does it mean that you agree with the discharge action. It is simply an acknowledgment that you have received this Letter of Notification.

 USAF
Commander

Attachments:

1. LOE, dated 20 November 2003 (1 page)
2. Article 15, dated 17 November 2003 (3 pages)
3. Article 15, dated 11 December 2002 (3 pages)
4. LOC, dated 25 March 2003 (1 page)
5. LOR, dated 8 April 2002 (2 pages)
6. LOR, dated 15 March 2002 (2 pages)
7. LOW, dated 11 March 2002 (2 pages)
8. LOC, dated 19 February 2002 (1 page)
9. LOC, dated 19 February 2002 (1 page)
10. LOC, dated 25 January 2002 (1 page)
11. LOC, dated 23 January 2002 (2 pages)